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U.S.C.

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
ESSEX COUNTY

STATE OF NEW JERSEY, DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Plaintiff,

vs.

SCIENTIFIC CHEMICAL PROCESSING, INC.,
a corporation; ENERGALL, INC., a
corporation; PRESTO INC., a corporation;
INMAR ASSOCIATES, INC., a corporation;
LEIF R. SIGMOND and DOMINICK PRESTO ,
a partnership, t/a SIGMOND AND PRESTO;
LEIF R. SIGMOND, an individual; HERBERT
G. CASE, an individual; MACK BARNES,
an individual; DOMINICK PRESTO , an
individual, MARVIN MAHAN, an
individual,

Defendants.

DOCKET NO. C-18 52-83E

Civil Action

VERIFIED COMPLAINT

Plaintiff, State of New Jersey, Department of Environmental
Protection (hereinafter "DEP") with principal offices at John Fitch

345784



Plaza, City of Trenton, Mercer County, New Jersey, by way of Complaint against defendants says:

NATURE OF ACTION

1. This is a civil action brought by DEP for a) injunctive relief, b) damages and c) penalties under authority of:

(i) The Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and its attendant regulations, N.J.A.C. 7:8-1 et seq. and N.J.A.C. 7:14A-1 et seq.;

(ii) The Solid Waste Management Act of 1970, as amended, N.J.S.A. 13:1E-1 et seq. and its attendant regulations, N.J.A.C. 7:26-1 et seq.;

(iii) The Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. and its attendant regulations N.J.A.C. 7:1E-1.1 et seq.;

(iv) The Water Quality Legislation set forth at N.J.S.A. 23:5-28;

(v) The Environmental Rights Act, N.J.S.A. 2A:35A-1 et seq.;

(vi) Strict Liability;

(vii) Common Law Nuisance;

(viii) Common Law Negligence.

PARTIES

2. The DEP, plaintiff herein, is a principal agency within the executive branch of the State government, and pursuant to N.J.S.A. 13:1D-9, is vested with the power to investigate all complaints of pollution in the State, to initiate all actions necessary to preserve

and protect the environmental quality and to benefit the public health, safety and welfare.

3. Defendant, Scientific Chemical Processing, Inc. (hereinafter "SCP") is a New Jersey Corporation which operated solid and hazardous waste disposal facilities at 411 Wilson Avenue, City of Newark, Essex County, New Jersey (hereinafter "Newark Site") and at 216 Paterson Plank Road, Carlstadt, Bergen County, New Jersey (hereinafter "Carlstadt Site"). According to records filed with the Office of the Secretary of State, Leif R. Sigmond, Herbert Case and Mack Barnes are directors of said corporation.

4. Defendant, Energall, Inc., (hereinafter "Energall") is a New Jersey Corporation which operated a solid and hazardous waste disposal facility at the Newark site. According to records filed with the Office of the Secretary of State, Leif R. Sigmond and Dominick Presto are directors of said corporation.

5. Defendant, Presto, Inc. (hereinafter "Presto") was a New Jersey Corporation that was voided in 1980. According to records filed with the Office of the Secretary of State, Carl Ling was a director of said corporation. It operated a solid and hazardous waste disposal facility at the Newark site.

6. Defendant, Leif R. Sigmond and Dominick Presto, a partnership, t/a Sigmond and Presto, is the fee owner of the Newark site, said property being conveyed by Luminal Paints Inc. to Presto and Sigmond by deed dated November 17, 1975 and filed at deed book 4521, page 1044 in the Essex County Clerk's Office.

7. Defendant, Inmar Associates, Inc. (hereinafter "Inmar") is a New Jersey Corporation. It is the fee owner of the Carlstadt site, said property being conveyed by Patrick Marone to Inmar by deed dated September 20, 1977 and filed at deed book 6297, page 120, in the Bergen County Clerk's Office. According to records filed with the Office of the Secretary of State, Marvin H. Mahan and George Terpak, Jr. are directors of said corporation. Defendant Mahan is the individual with primary authority for the operations of Inmar, the owner of the Carlstadt site.

8. Defendant, Leif R. Sigmond (hereinafter "Sigmond") managed, operated and dominated all operations of SCP, Energall and Presto at both the Newark and Carlstadt sites. Sigmond is also a partner in the partnership of Leif R. Sigmond and Dominick Presto, which owns the Newark site. See Exhibit A.

9. Defendants, Herebert G. Case and Mack Barnes (hereinafter "Case" and "Barnes") held significant management and decision making positions with SCP, Energall and Presto. Said defendants operated and exercised significant control over the corporate activities and operations of SCP, Energall and Presto. See Exhibit A.

10. Defendant, Dominick Presto is a partner in the partnership of Leif R. Sigmond and Dominick Presto, which owns the Newark site. Presto is also the secretary of Energall.

PAST LITIGATION

11. Pursuant to N.J.S.A. 13:1E-11, on or about April 30, 1978 DEP issued a Temporary Operating Authorizations (hereinafter "TOA") to SCP, Energall and Presto. Said TOA's were expressly limited to a

one year period. During this one year term, SCP, Energall and Presto Inc. were provided an opportunity to obtain permanent registration pursuant to N.J.S.A. 13:1E-5. However, said companies did not submit necessary engineering designs within time.

12. On April 30, 1979, the TOA's set forth in Paragraph 11 above expired on their own terms. Thereafter, by means of mailgram, DEP advised SCP, Energall and Presto, that their operations must cease.

13. After receiving the above mailgram, SCP, Energall and Presto, instituted suit in the Chancery Division of the Superior Court, seeking an order restraining DEP from enforcing the injunctive and penalty provisions of the Solid Waste Management Act. Said action was dismissed by the Court for lack of jurisdiction.

14. In May 1979, SCP, Energall and Presto, Inc. sought emergent relief in the nature of a stay pending appeal from the Appellate Division. In response, the State filed its answering brief together with a motion to enjoin SCP, Energall and Presto, Inc. from undertaking further operations at their Carlstadt and Newark facilities. DEP also sought an order directing appellants to cleanup the environmental hazards at their facilities. The Appellate Division denied the applications of all parties and remanded the matter to DEP for a hearing.

15. An administrative hearing was held before an Administrative Law Judge during eleven days between June 26, 1979 and July 17, 1979.

16. On October 18, 1979, the Administrative Law Judge issued a Recommended Report and Decision. A copy of said report is attached hereto as Exhibit A.

17. On March 27, 1980, after considering the aforesaid Recommended Report and Decision, the Commissioner of the DEP issued his final decision adopting the recommendations of the Administrative Law Judge and ordering SCP, Energall and Presto, Inc. to stop all solid waste disposal operations.

18. Since the Appellate Division had retained jurisdiction by Order of June 15, 1979, the DEP moved for enforcement of the Commissioner's determination. SCP, Energall and Presto also moved before the Appellate Division for a stay of the Administrative Order pending appeal.

19. On May 7, 1980 the Appellate Division denied DEP's motion for enforcement and defendant's motion for a stay.

20. By motion dated May 22, 1980 the DEP sought leave from the Supreme Court to take an interlocutory appeal from the aforesaid decision of the Appellate Division. On June 12, 1980 the Supreme Court ordered "that appellants immediately cease all solid waste disposal operations, including the handling of special wastes, at their facilities located at 411 Wilson Avenue, Newark and at 216 Paterson Plank Road, Carlstadt pending the disposition of the appeal of the Appellate Division. A copy of said order is attached hereto as Exhibit B.

21. In an unreported decision dated October 10, 1980 the Appellate Division affirmed the final action of the DEP. A copy of said decision is attached hereto as Exhibit C.

22. Notwithstanding the hearing officer's determination that "at this point, all of appellant's (SCP, Energall and Presto) energies must be devoted to cleanup and compliance with the State's anti-pollution laws and regulations", defendants have taken no action to cleanup either the Newark or Carlstadt site.

THE NEWARK SITE

23. The Newark site is situated in the "ironbound" district of the City of Newark in close proximity to residential areas.

24. There are at least 2000 drums containing hazardous and otherwise dangerous substances, solid waste and/or pollutants situated on the Newark site but outside of the buildings thereon. These drums are leaking their contents, corroding and/or collapsing. See affidavits of Jonathan Berg and George Weiss which are attached hereto as Exhibits D and E.

25. Based upon information provided to DEP by SCP, the drums on the Newark site contain toluene, ethylacetate, trichloroethylene, isopropanol, mixed solvents, phenolic resins, paint and paint pigments and acryloid coatings. See Exhibit F.

26. No secondary containment is constructed under the drums set forth in Paragraph 24 above. Hazardous substances and pollutants are spilling, discharging or leaking onto the soil of the site from which they may flow into the waters of the State.

27. The drums set forth in Paragraph 24 above are not properly segregated according to waste classification in violation of N.J.A.C. 7:26-1 et seq.

28. There are at least 9 tank trailers situated at the Newark site. Said trailers are leaking and corroding. Based upon information submitted to DEP by SCP, said tank trailers contain substantial quantities of "fuel blend", fuel oil and/or mixed organic solvents containing ketones, alcohols, esters, and aliphatic and aromatic hydrocarbons of various concentration, together with other unknown materials.

29. There are at least 105 drums on site packed with bottles of laboratory chemicals. See Exhibit E and G.

30. There are at least 30 mixing vessels and/or bulk storage tanks at the Newark site containing thousands of gallons of oil, perchloroethylene, fuel blend, bottoms, "raw chlorinated materials", chlorinated still bottoms and solvent solutions containing ketones, alcohols, esters, aromatic and aliphatic hydrocarbons and fuel resins.

31. On the second floor of the main building at Newark site, there are 3,000 to 5,000 sample bottles containing hazardous, poisonous and flammable substances.

32. There are at least 5 drums of cumene hydroperoxide stored on the site. This chemical is considered to be very dangerous because of its tendency to explode. See Exhibit G and H.

33. The stills and sludge boxes at the Newark site contain thousands of gallons of fuel residues, resins, sludge and solvent mixtures of ketones, alcohols, esters and aromatic and aliphatic hydrocarbons of varying concentrations, together with other unknown materials. These materials are hazardous substances, pollutants and/or solid waste as defined by the aforesaid environmental Laws of the State.

34. The presence of polychlorinated biphenyls (hereinafter "PCB") has been detected in the materials present on the Newark site.

35. DEP has requested that SCP, Energall and Presto cleanup the Newark and Carlstadt sites. See Exhibit I.

36. Notwithstanding DEP's requests neither SCP, Energall and Presto nor Sigmond, Case and Barnes individually have taken action to cleanup the Newark site.

37. Notwithstanding the hazardous and illegal conditions which exist at the Newark site, neither the Sigmond and Presto partnership, nor Sigmond and Presto individually, have taken action to cleanup said property even though they knew or should have known of the hazardous conditions which exist thereon.

THE CARLSTADT SITE

38. The Carlstadt site is situated directly across from the New Jersey Sports and Exposition offices along Paterson Plan Road and is bordered at its northerly boundry by the Berrys Creek Tidal marsh.

39. At least 44 storage tanks, 59 drums and 15 tank trailers containing hazardous substances are situated on site. See affidavit of Alphonse Iannuzzi which is attached hereto as Exhibit J.

40. Many of the aforesaid storage tanks, drums and tank trailers are leaking and spilling hazardous substances onto the ground which thereafter flow into Peach Island Creek, a tidal waterbody in the Berrys Creek tidemmarsh.

41. Many of the drums situated on site are not properly

stacked causing a substantial risk of spills and/or discharges of hazardous substances. Said drums contain benzene, toluene, ethylacetate, trichloroethylene, isopropanol, phenolic resins, paint and paint pigments, and mixed solvents, together with other unknown chemicals.

42. The hold tanks situated at the Carlstadt site have capacities ranging from 1,600 gallons to 14,000 gallons. Said tanks contain substantial quantities of No. 2 fuel oil, fuel residues, crude thinner, methanol, T-fuel oil, sodium sulphate, fuel blend, crude methanol in phosphoric acid, sludge and thin film bottoms, together with other unknown chemical. Said materials are hazardous substances, solid waste and/or pollutants as defined by the aforesaid Environmental Statutes. See Exhibit F.

43. There is evidence of numerous chemical spills and/or discharges throughout the Carlstadt site. See Exhibit J.

44. In the area of the tank farm, there is a strong odor of organic solvents.

45. In 1979 personnel from the DEP analyzed samples of material flowing from an outfall pipe on the Carlstadt site into Peach Island Creek. The results of these analyses showed the presence of chloroform, benzene, trichloroethylene, tetrachloroethylene, toluene, xylenes, trichloroethane, methylethylketone and methylisobutylketone.

46. Notwithstanding the hazardous and illegal conditions which exist at the Carlstadt site, Inmar has taken no action to cleanup said property. Inmar knew or should have known of the existence of these hazardous conditions. Further, Mahan was and continues to be aware of same.

PROPERTY OWNERSHIP

47. Defendant, Sigmond and Presto, partnership, t/a Sigmond and Presto, is the fee owner of the Newark site. See Exhibit K.

48. Defendant, Sigmond and Presto, Partnership, together with its individual partners Sigmond and Presto know or should know and have or should have known at all times mentioned in this complaint of the hazardous, dangerous and illegal conditions which exist on the Newark site.

49. By lease dated January 1, 1976, Leif R. Sigmond and Dominick Presto, partners, t/a Sigmond and Presto leased a portion of the premises known as 411 Wilson Avenue, Newark, New Jersey (Newark site) to Energall, Inc., said premises to be used as a chemical plant, including fuel blending. A copy of said Lease is attached hereto as Exhibit L.

50. Exhibit L was signed by Leif R. Sigmond on behalf of Energall, the tenant, and by Dominick Presto on behalf of Sigmond and Presto, the landlord. Also see Exhibit J.

51. Defendant, Inmar is the the fee owner of the Carlstadt site. Defendants, Inmar and Mahan know or should know and have or should have known at all times mentioned in this complaint of the hazardous, dangerous and illegal conditions which exist at the Carlstadt site.

52. By agreement dated October 31, 1970, Inmar let and demised the Carlstadt site to SCP.

53. On numerous occasions representatives of the Hackensack Meadowlands Development Commission (hereinafter "HMDC") advised

Inmar and Mahan that the hazardous conditions on the Carlstadt site must be immediately remedied.

OPERATIONS OF SCP, ENERGALL AND PRESTO

54. On May 9, 1978, defendants SCP, Energall and Presto received temporary authority from DEP to transfer, store, reprocess, reclaim, blend and treat solid and hazardous waste at the Newark site.

55. SCP alone received temporary authority from DEP to transfer, store, reprocess, reclaim, blend and treat solid and hazardous waste at the Carlstadt site.

56. SCP, Energall and Presto advised the DEP that their operations were primarily directed at recovering and recycling waste solvents and fuels to industry by processes known as distillation and blending.

57. During the course of their operations, SCP, Energall and Presto interchangeably utilized the services of their employees without regard for each corporation's separate identity, proper corporate formalities and documentation.

58. During the course of their operations, SCP, Energall and Presto interchangeably utilized equipment situated at the Newark and Carlstadt site. See Exhibit A.

59. There was no distinction between the operations of SCP, Energall and Presto. They were, in essence, one corporate entity.

60. Defendants Sigmond, Case and Barnes operated, managed and controlled the operations of SCP, Energall and Presto as if they were, in effect, one entity. See Exhibit A.

FIRST COUNT

61. Plaintiff repeats each and every allegation of Paragraphs 1 through 60 as if same were fully set forth herein.

62. Pursuant to the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., it is unlawful for any person to discharge any pollutant into the waters of the State or onto the land of the State from which it may flow or drain into said waters except in conformity with a valid New Jersey or Federal discharge permit.

63. Defendants do not hold valid New Jersey or Federal discharge permits for the Newark or Carlstadt sites.

64. Pursuant to N.J.S.A. 58:10A-1, et seq., DEP is authorized to commence a civil action in the Superior Court to enforce the provisions of the Water Pollution Control Act. Further, pursuant to N.J.S.A. 58:10A-10e any person who violates the Water Pollution Control Act shall be subject to a civil penalty not to exceed \$10,000 per day for each violation and each days continuance of the violation shall constitute a separate violation.

65. Pursuant to N.J.S.A. 58:10A-3(1), person means "any individual, corporation, company, partnership, firm, association, owner or operator of a treatment works -- or any responsible corporate official for the purpose of enforcement action under Section 10 of the Act."

66. Defendants have and continue to violate the provisions of N.J.S.A. 58:10A-1 et seq. by discharging or allowing the discharge of pollutants into the waters of the State or onto land of the State from which the pollutants may flow or drain into said waters.

67. Defendants are strictly liable for all violations of N.J.S.A. 58:10A-1 et seq.

68. Defendants are jointly and severally liable for all violations of N.J.S.A. 58:10A-1 et seq.

69. Defendant, Sigmond and Presto, a partnership, is the owner of the Newark site. This partnership, together with its individual partners, Leif Sigmond and Dominick Presto, knew or should have known of the hazardous conditions present on the Newark site. Said defendants also knew or should have known that numerous illegal discharges of hazardous substances have and continue to occur thereon. However, said defendants have failed to take any action to abate and remedy same even though said conditions have existed for several years. See Exhibit M.

70. Defendant Inmar is the owner of the Carlstadt site. Inmar together with Mahan, its principal director, knew or should have known of the hazardous conditions present on the Carlstadt site. Said defendant also knew or should have known that numerous illegal discharges of hazardous substances have and continue to occur thereon. However, said defendants have failed to take any action to abate and remedy same even though said conditions have existed for several years.

WHEREFORE, plaintiff demands judgment ordering defendants, jointly and severally to:

- a) Immediately remedy and end all violations of N.J.S.A. 58:10A-1 et seq. in a manner satisfactory to DEP;
- b) Pay for cleanup of the Newark and Carlstadt site;
- c) Pay maximum statutory penalties;

- d) Pay compensatory damages;
- e) Temporarily and permanently enjoining defendants from continuing to violate N.J.S.A. 58:10A-1 et seq.;
- f) In the event defendants do not immediately remedy all violations of N.J.S.A. 58:10A-1 et seq., plaintiff seeks an order appointing a receiver for the purpose of selling all real and personal property at the Newark and Carlstadt sites, the proceeds obtained therefrom to be used to cleanup said sites by and under the supervision of the DEP.
- g) To comply with such other relief as the court deems just and equitable.

SECOND COUNT

71. Plaintiff repeats each and every allegation of Paragraphs 1 through 70 of the complaint as if same were set forth more fully herein.

72. Pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. the DEP is empowered to supervise and regulate solid waste collection and disposal facilities in the State of New Jersey.

73. Pursuant to N.J.S.A. 13:1E-9 the DEP is authorized to proceed for injunctive relief and statutory penalties in a summary manner in the Superior Court against any person who violates any of the provisions of the Act and/or the rules and regulations promulgated pursuant thereto.

74. Pursuant to N.J.S.A. 13:1E-5a "unless exempted by the Department, no person shall hereafter engage or continue to engage in the collection or disposal of solid waste in this State without first filing a registration statement and obtaining approval thereof from the Department."

75. Pursuant to N.J.A.C. 7:26-1.4, disposal means "the storage, treatment, utilization, processing or final disposition of solid waste."

76. Defendants have engaged in the collection and/or disposal of solid waste without proper authorization from the DEP.

77. Under §10 of the Solid Waste Management Act, any person who directly or indirectly through his officers, employees or other agents or representatives violates the Act or its attending regulations, N.J.A.C. 7:26-1 et seq., is subject to remedial and preventive enforcement action by DEP, either by issuance of a Departmental Order or by direct prosecution of the matter seeking injunctive relief penalties and damages.

78. The Newark and Carlstadt sites were subject to regulation by DEP, pursuant to the Solid Waste Management Act, and its attendant regulations, including the DEP's Solid Waste Regulations, N.J.A.C. 7:26-7.1 et seq. and the subsequently enacted hazardous waste management regulations, N.J.A.C. 7:26-9.1 et seq.

79. Pursuant to N.J.S.A. 13:1E-11, on April 30, 1978, DEP issued SCP, Energall and Presto, TOA's to operate special waste facilities. Said TOA's expired on their own terms on April 29, 1979 and no further renewals or registrations were issued to defendants.

80. On or about June 12, 1980, the New Jersey Supreme Court ordered that all activities of SCP, Energall and Presto immediately cease operations.

81. Defendants are obligated to comply with N.J.A.C. 7:26-9.8 et seq. relating to the sound closure of the Newark and Carlstadt facilities.

82. At the time when SCP, Energall and Presto were ordered to cease operations substantial quantities of solid waste, hazardous waste and other hazardous substances were present on site in various drums, tanks and mobile tankers.

83. These materials remain at the subject premises to the present day and are being stored, in violation of N.J.S.A. 13:1E-1 et seq. and N.J.A.C. 7:26-9.8 et seq. under conditions which promote the likelihood that a spill or discharge of waste materials will occur through either vandalism or deterioration of equipment.

84. N.J.A.C. 7:26-9.8(b) imposes liability jointly upon the owner and the operator to ensure the environmentally sound closure of a hazardous waste facility. Despite being advised by the DEP, and the HMDC on numerous occasions of this responsibility and having full knowledge of the conditions existing at the Newark and Carlstadt sites, defendants have failed, neglected or refused to take any action to remedy the environmental hazards present at the site. This conduct is in violation of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and its implementing regulations, N.J.A.C. 7:26-1 et seq., including but not limited to N.J.A.C. 7:26-9.8 (closure); N.J.A.C. 7:26-9.2 (unauthorized storage of hazardous wastes); N.J.A.C. 7:26-9.4 et seq. (negligent storage of hazardous wastes.)

85. The property owners of the Newark and Carlstadt site, as set forth hereinabove, are in violation of N.J.S.A. 13:1E-1 et seq. and N.J.A.C. 7:26-1 et seq. because they have illegally stored solid and hazardous wastes on said sites without proper authorization of the DEP.

WHEREFORE, plaintiff demands judgment ordering defendants, jointly and severally to:

- a) Immediately remedy and end all violations of N.J.S.A. 13:1E-1 et seq. and N.J.A.C. 7:26-1 et seq. in a manner satisfactory to NJDEP, including but not limited to the cleanup and removal of all waste materials at the Newark and Carlstadt sites;
- b) Reimburse plaintiff for all expenses incurred in taking preventive or remedial actions at the Newark and Carlstadt sites;
- c) Pay compensatory damages;
- d) Pay statutory penalties;
- e) Pay costs of suit;
- f) In the event that defendants do not immediately remedy all statutory violations at the Newark and Carlstadt sites, plaintiff seeks an order appointing a receiver for the purpose of selling all real and personal property at the Newark and Carlstadt site, the proceeds therefrom to be used to cleanup said sites by and under the supervision of the DEP;
- g) Comply with such other relief as the Court deems just and equitable.

THIRD COUNT

86. Plaintiff repeats each and every allegation in paragraphs 1 through 85 as if same were fully set forth herein.

87. Defendants have allowed and continue to allow hazardous substances to be spilled, discharged, leaked and/or released into waters of the State and/or onto lands from which said hazardous substances may flow or run off into said waters in violation of N.J.S.A. 58:10-23.11 et seq. See Exhibits D, E, G, H and J.

88. Pursuant to N.J.S.A. 58:10-23.11(c), the discharge of hazardous substances is prohibited unless a party is in compliance with the conditions of a Federal or State Permit.

89. Pursuant to N.J.S.A. 58:10-23.11(e) any person who may be subject to liability for a discharge after the effective date of the Spill Compensation and Control Act shall immediately notify DEP or be liable pursuant to N.J.S.A. 58:10-23.11(u).

90. Defendants have and continue to fail to give DEP notification of the numerous discharges which have occurred at both the Newark and Carlstadt sites.

91. N.J.S.A. 58:10-23.11(u) provides for a penalty of \$25,000 per day for each violation of the provisions of N.J.S.A. 58:10-23.11 et seq. and each day a discharge continues, a separate violation occurs.

92. Pursuant to N.J.S.A. 58:10-23.11u (b), the DEP may institute a civil action in the Superior Court for injunctive relief to prohibit and prevent the continuation of the violations of the Spill Compensation and Control Act. Further, the Court may proceed in a summary manner.

93. The aforementioned acts and/or omissions by defendants constitute a discharge in violation of N.J.S.A. 58:10-23.11 et seq. See Exhibits D, E and G.

94. N.J.S.A. 58:23.11(u) provides for a penalty of \$25,000 per day for each violation of the Spill Compensation and Control Act and each day a discharge continues a separate violation occurs.

WHEREFORE, plaintiff demands judgment ordering defendants jointly and severally to:

- a) Immediately cleanup, remove and remedy the effects of all hazardous substances discharged and continuing to be discharged at the Newark and Carlstadt sites;
- b) Pay treble damages for any costs incurred by DEP in investigating and remedying the effects of the hazardous substances discharged at the Newark and Carlstadt sites;
- c) Comply with the demands for relief heretofore set forth in First and Second Counts of the Complaint;
- d) In the event that defendants do not immediately remedy all statutory violations at the Newark and Carlstadt sites, plaintiff seeks an order appointing a receiver for the purpose of selling all real and personal property at the Newark and Carlstadt site, the proceeds therefrom to be used to cleanup said sites by and under the supervision of the DEP;
- e) Pay maximum statutory penalties for each violation of N.J.S.A. 58:23.11 et seq.
- f) To comply with such other relief as the Court deems just and equitable.

FOURTH COUNT

95. Plaintiff repeats each and every allegation of Paragraphs 1 through 94 of the Complaint as if same were fully set forth herein.

96. Pursuant to N.J.S.A. 23:5-28 no person may discharge or otherwise permit the runoff, flow or seepage of any deleterious substances into the ground or surface waters of the State or onto land from which such runoff may occur.

97. Pursuant to N.J.S.A. 23:5-28, DEP is authorized and empowered and obligated to seek injunctive relief and penalties to prevent said discharge of deleterious substances into the ground or surface waters of the State or onto land from which such runoff may occur.

98. At numerous times defendants have allowed deleterious materials to runoff, flow, seep and discharge from the subject property onto ground and/or surface waters of the State in violation of N.J.S.A. 23:5-28. See Exhibits A, D, E, G, H and J.

99. Despite knowledge of the aforesaid conditions, defendants have not eliminated the unlawful discharge and have not corrected conditions giving rise to same.

100. Person or persons violating N.J.S.A. 23:5-8 are liable for penalty not to exceed \$6,000 for each offense. On numerous occasions defendants have violated the provisions of N.J.S.A. 23:5-8.

WHEREFORE, plaintiff demands judgment ordering the defendants, jointly and severally to:

- a) Immediately eliminate and prevent the drainage and/or discharge of haardous and deleterious substances in a manner satisfactory to the DEP;
- b) Pay maximum statutory penalties for each violation of N.J.S.A. 23:5-28.

- c) Comply with the demands for relief heretofore set forth in the First, Second and Third Counts of this complaint;
- d) In the event that defendants do not immediately remedy all statutory violations at the Newark and Carlstadt sites, plaintiff seeks an order appointing a receiver for the purpose of selling all real and personal property at the Newark and Carlstadt sites, the proceeds therefrom to be used to cleanup said sites by and under the supervision of the DEP;
- e) To comply with such other relief as the Court deems just and equitable.

FIFTH COUNT

101. Plaintiff repeats each and every allegation of paragraphs 1 through 100 of the Complaint as if same were fully set forth herein.

102. Defendants' actions, activities and omissions as set forth more fully hereinabove have caused conditions which have and continue to impair, pollute and contaminate the waters of the State, Peach Island Creek, the Berrys Creek Tidemarsh and the fish, birds and other living organisms associated therewith in violation of numerous environmental studies designed to prevent and minimize pollution, and impairment or destruction of the environment. See Exhibits A and J.

103. These aforesaid conditions constitute a violation of the Environmental Rights Act, N.J.S.A. 2A:35A-1 et seq.

104. Pursuant to N.J.S.A. 2A:35A-1 et seq., the courts are authorized to grant appropriate equitable relief to protect the people's right to a safe, healthful and unpolluted environment.

WHEREFORE, plaintiff demands judgment:

- a) Granting a temporary and permanent injunction enjoining defendants from discharging hazardous substances which pollute the waters of the State, and the Berrys Creek Tidemarsh;
- b) Ordering defendants to immediately eliminate, in a manner satisfactory to DEP, all statutory violations and hazardous conditions which exist at the Newark and Carlstadt sites;
- c) Ordering defendants to pay for cleanup of the Newark and Carlstadt sites;
- d) Ordering the property owners of the Newark and Carlstadt site to cleanup and rid their respective properties of all statutory violations and hazardous conditions which exist hereon;
- e) Ordering defendants to comply with the demands set forth in the First through Fourth Counts of this Complaint;
- f) Ordering that defendants pay costs of suit, including expert witness and counsel fees pursuant to N.J.S.A. 2A:35A-10;
- g) Granting such other relief as the Court may deem just and necessary.

SIXTH COUNT

105. Plaintiff repeats each and every allegation of paragraphs 1 through 104 of the Complaint as if same were fully set forth herein.

106. Defendants have allowed and caused hazardous substances to be discharged, deposited, spilled and/or leaked into waters of the State or onto land from which they may run off and flow into said waters. See Exhibits A, D, E, G, H and J.

107. Said activities set forth in paragraph 106 above, constitute a public and private nuisance which are injurious to the public health, welfare and environment of the residents of the immediate area and the State of New Jersey. See affidavit of Dr. Robert K. Tucker which is attached hereto as Exhibit N.

108. The activities undertaken at the Newark and Carlstadt sites were and continue to be ultrahazardous, since many of the substances stored, handled, reprocessed, mixed or blended at said sites were extremely toxic, hazardous and/or explosive. See Exhibit N.

109. Even though defendants have knowledge of the aforesaid conditions, they have failed to correct and abate same.

110. Defendants have violated numerous environmental statutes including but not limited to N.J.S.A. 58:10A-1 et seq., N.J.S.A. 13:1E-1 et seq., N.J.S.A. 58:10-23.11 et seq. and N.J.S.A. 23:5-28. See Exhibits D, E, G, H and J.

111. Defendant's use of the Newark and Carlstadt sites has and continues to unreasonably interfere with the common right of the general public to have a safe and healthy environment.

112. Defendants are strictly liable for the damages caused by public and private nuisances at the Newark and Carlstadt sites.

113. Defendants are obligated to abate the public and private nuisances at the Newark and Carlstadt sites.

WHEREFORE, plaintiff demands judgment ordering the defendants, jointly and severally to:

- a) Immediately eliminate, in a manner satisfactory to the NJDEP, the public or private nuisance created by the unsafe storage of hazardous and other wastes at the Newark and Carlstadt sites;
- b) Take all steps necessary to remove and prevent the hazardous and other wastes from entering the waters of the State and from injuring the public health and environment;
- c) Pay damages proximately caused by the maintenance of this public nuisance;
- d) Comply with the demands for relief heretofore set forth in the First through Fifth Counts of this complaint;
- e) Comply with such other relief as the Court deems just and equitable.

SEVENTH COUNT

114. Plaintiff repeats each and every allegation of paragraphs 1 through 113 of the Complaint as if same were fully set forth herein.

115. Defendants have knowingly and wilfully violated the laws of the State of New Jersey and regulations promulgated thereto.

116. Defendants have operated a solid waste disposal operation at the Newark and Carlstadt sites in a negligent manner so as to allow harmful, deleterious and hazardous substances to be discharged into the waters of the State or placed on land in a manner which allows them to run off and flow into said waters. See Exhibits D, E, G, H and J.

117. Defendant's conduct in connection with the operation of the Newark and Carlstadt sites was and continues to be reckless, willful and wanton.

118. Defendants' failure to prevent the aforesaid discharge of hazardous substances and the failure to cleanup same constitutes gross, willful and wanton disregard for the public health, safety and welfare.

119. Defendants are strictly liable for the damages caused by their negligent and/or intentional acts or failures to act.

120. Defendants are strictly liable for the violations of N.J.S.A. 58:10-23.11 et seq., N.J.S.A. 58:10A-1, et seq., N.J.S.A. 13-1E-1 et seq. and N.J.S.A. 23:5-28.

WHEREFORE, plaintiff demands judgment ordering defendants, jointly and severally to:

- a) Cleanup and remove all solid and hazardous waste present on the Newark and Carlstadt sites;
- b) Take all steps necessary to prevent further discharges of hazardous substances at the Newark and Carlstadt sites;
- c) Pay compensatory damages;
- d) Pay punitive damages;

- e) Comply with the relief heretofore set forth in Counts One through Six of this Complaint;
- f) Comply with such other relief as the court deems just and equitable.

IRWIN I. KIMMELMAN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff

By David W. Reger
David W. Reger
Deputy Attorney General

DATED: April 26, 1983

STATE OF NEW JERSEY)
 : ss
COUNTY OF MERCER)

GEORGE SMAJDA, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am employed by the Department of Environmental Protection, with the Division of Waste Management. In this capacity my primary duties involve the enforcement of the Solid Waste Management Act, other environmental statutes and the Department's regulations.

2. In connection with my assignment, I have had occasion to inspect the Scientific Chemical Processing Inc. operations at 411 Wilson Avenue, Newark, New Jersey and 216 Paterson Plank Road, Carlstadt, New Jersey. The corporations known as Energall, Inc. and Presto, Inc. also operated facilities on the Newark site.


3. I am fully familiar with the facts pertaining to this matter.

4. I have read the complaint and affidavits which are attached hereto and to the best of my knowledge, the facts set forth therein are true and accurate.



George Smajda

Sworn and subscribed to before
me this 29th day of April, 1983.



David W. Reger
Attorney at Law of New Jersey



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

185 WASHINGTON ST
NEWARK, NEW JERSEY 07102
(201) 648 6186

DEPUTY DIRECTOR
OFFICE ADMINISTRATIVE LAW JUDGE

TO: Daniel J. O'Hern, Commissioner
Dept. Environmental Protection
1301 Parkside Ave.
Trenton

RE: Administrative Hearing on
Scientific Chemical Processing,
Inc., and Presto, INC.

OAL DKT. NO. ESW 1719-79

Pursuant to N.J.S.A. 52:14B-10(c), we hereby file with the Agency Head the Initial Decision in this matter. Kindly note that the above statute requires that the parties receive a copy of the Initial Decision received as to deliver by the Agency Head. Would you, therefore, sign the Initial Decision as to receipt, keeping a copy for yourself, and give the original back to our messenger so that we may serve the parties with an Initial Decision receipted by the Agency Head.

As per said statute, the forty-five (45) day period for Agency Head runs from date of receipt by the Agency Head.

DATE: _____

RONALD I. PARKER, ESQ.
Director, Judicial Management

RIP/mlr

OAL - a/21 - (08/13/79)

EXHIBIT "A"

IN THE MATTER OF COURT ORDERED
ADMINISTRATIVE HEARING ON SCIENTIFIC
CHEMICAL PROCESSING, INC., ENERGALL,
INC., AND PRESTO, INC.

: RECOMMENDED REPORT AND DECISION

: OAL DKT. #ESW 1719-79

APPEARANCES:

Giordano, Halleran, & Crahan, Esqs., by Francis X. Crahan, Esq.,
and Michael J. Gross, Esq., for Scientific Chemical Processing,
Inc., Energall, Inc., and Presto, Inc.

Nathan M. Edelstein, Esq., and Dennis J. Krumholz, Esq., Deputy
Attorneys General, on behalf of the Department of Environmental
Protection

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BEFORE THE HONORABLE LEWIS P. GOLDSHORE, ALJ c/b:

I. INTRODUCTION

In accordance with the applicable statutory provision, N.J.S.A. 52:14F-8(b) and N.J.S.A. 52:14E-10(c), the Department of Environmental Protection [herein the "DEP"] elected not to hear and determine this matter directly, and a request was transmitted to the Office of Administrative Law for the assignment of an administrative law judge to conduct the hearing (OAL-3). As a result of this request, Lewis P. Goldshore, Esq., was appointed by the Director of the Office of Administrative Law as an administrative law judge, on a case basis, to conduct the administrative hearing in the instant matter.

Notice was provided by telegram to the parties that a pre-hearing conference was to be held on June 26, 1979. At the conclusion of this conference, a Pre-hearing Order [OAL-10] was entered. Thereafter, hearings were held on June 27, and 28, July 3, 5, 6, 9, 10, 13, 16 and 17, 1979. References to the transcript of the hearings shall be as follows: June 27, "1T"; June 28, "2T"; July 3, "3T"; July 5, "4T"; July 6, "5T"; July 9, "6T"; July 10, "7T"; July 13, "8T"; July 16, morning session, "9aT"; July 16, afternoon session, "9bT"; July 17, "10T". References to the exhibits introduced in evidence shall be as follows: Scientific Chemical Processing, Inc., et al., exhibits, "SCP-1 et seq."; Department of Environmental Protection exhibits, "DEP-1 et seq."; and Office of Administrative Law exhibits, "OAL-1 et seq."

II. NATURE OF PROCEEDINGS

This contested case arises from an Order [OAL-1] issued by the New Jersey Superior Court, Appellate Division, on June 15, 1979, in an action entitled: In re: Order Denying Temporary Operating Authorization for Facilities Owned and Operated by Energall, Inc., Scientific Chemical Processing, Inc. and Presto, Inc., Docket No. AM-678-78. That Order provided in pertinent part:

"A stay is denied conditioned strictly upon faithful compliance by the Department of Environmental Protection (DEP) with the following requirements:

DEP shall immediately schedule and within seven days of its receipt of this order or the first business day thereafter commence a plenary hearing respecting its failure to renew a Temporary Operating Authorization for Energall, Inc., Presto, Inc. and Scientific Chemical Processing, Inc. (hereafter corporations) and its directions by mailgram and correspondence that handling of "special waste" or "solid waste disposal" must cease after April 30, 1979."

On June 27, 1979, hearings commenced respecting the DEP's failure to renew a Temporary Operating Authorization for Energall, Inc., Presto, Inc., and Scientific Chemical Processing, Inc. [herein collectively referred to as "appellants"] and said department's written direction that handling of "special waste" or "solid waste disposal" must cease after April 30, 1979. As specified in the pre-hearing order, the DEP proceeded with its case first. The department's witnesses were presented at hearings held on June 27 and 28, July 3, 5, 6, 9 and 10, 1979. In support of the DEP's case, fifty-four (54) separately numbered exhibits [DEP-1 through DEP-55, exclusive of DEP-18] were marked and received in evidence. Following the close of the administrative agency's case, appellants requested and were granted a two (2) day adjournment for the purpose of preparing their presentation. Hearings resumed on July 13, and were continued on July 16 and 17, 1979, at which time the taking of testimony concluded. Forty-one (41) separately numbered exhibits [SCP-1 through SCP-54, exclusive of SCP-9, 11, 12, 13, 14, 15, 16, 23, 24, 37, 53, 54] were marked and received in evidence.

At the conclusion of the hearings, a schedule for the preparation of briefs was established and agreed to by the parties (10T83-19 to 23). Briefs were filed by the DEP on September 14, 1979, and by the appellants on September 18, 1979. On September 21, 1979, DEP filed a reply to appellants' brief, and on October 2, 1979, appellants filed a reply brief.

III. PRELIMINARY FINDINGS OF FACT

A. Stipulations

The following matters were the subject of stipulations:

Scientific Chemical Processing, Inc., operates one (1) facility at 216 Paterson Plank Road, in Carlstadt and a second facility at 411 Wilson Avenue, Newark, New Jersey. Energall, Inc. and Presto, Inc. also operate their facilities at 411 Wilson Avenue, Newark, New Jersey (OAL-10).

The appellants handle toxic, flammable and corrosive chemicals (1T64-18 to 19).

Other Undisputed Facts

Counsel for appellants stated that as of June 28, 1979 all four (4) operations were continuing to operate and were ongoing (2T94-14 to 18).

B. Summary and Discussion of Testimony

1. Testimony of Ronald J. Buchanan

Dr. Ronald J. Buchanan was the first witness presented by the DEP. He holds a Bachelor's Degree in chemistry from State College at Millersville, Pennsylvania, a Master's Degree in environmental science and engineering curriculum at Drexel, and a doctorate from Drexel University. Dr. Buchanan's doctorate thesis concerned the treatability of leachates from landfills. His major concentration of study was in environmental chemistry, and he had a minor concentration in engineering unit operations (1T42-2 to 11).

Dr. Buchanan holds the position of Chief of the Bureau of Hazardous and Chemical Wastes, Solid Waste Administration, DEP. His overall responsibilities include the development and implementation of a State Hazardous Waste Management Plan, the administration of a Manifest System for tracking such wastes, and the inspection of facilities and the review of plans to ascertain compliance with applicable statutes and regulations (1T36-3 to 21). This witness was accepted as an expert in environmental engineering and science, and the handling and management of chemicals in the environment (1T45-10 to 19; 1T80-2 to 10).

Dr. Buchanan was observed to be a particularly knowledgeable and forthright witness. His testimony on direct as well as on cross-examination was responsive, informative and highly credible.

Dr. Buchanan explained that a "special waste facility" was one involved in the handling, processing, treatment, reclaiming or disposal of chemical and hazardous waste (1T37-18 to 22). He indicated that in reviewing applications for registration of such facilities, the DEP is concerned with the detailed engineering designs to be assured that incompatible materials will not be mixed; the spill control and prevention aspects as well as cleanup operations; the emergency contingency plans; and the environmental impact assessment (1T38-5 to 39-6). He emphasized the importance of the manifest system, which provides for the "cradle to grave" monitoring of chemical wastes in the State (1T46-15 to 49-23). Manifest documents submitted to the DEP by Scientific Chemical Processing, Inc. [herein SCP], as well as by the other appellant corporations, indicate that they handle hazardous chemicals with flammable, corrosive and irritant properties (1T63-2 to 14). This was stipulated to by appellant's counsel [1T64-16 to 19], and not disputed during the course of the hearings.

The testimony of this and other witnesses also indicated the close management and operational relationship among the three (3) appellant corporations. Presto, Inc., primarily handles chlorinated solvents that have toxic properties. Energall, Inc. receives wastes for processing from SCP in Newark [1T82-10 to 83-16], and SCP redistills solvent type materials of various organic chemical residues to produce other byproducts (1T85-12 to 16). Mack Barnes was identified as the primary administrative authority for SCP in Carlstadt, while Herbert Case, Jr. functioned in a similar capacity for SCP in Newark. Leif R. Sigmond was primary administrator for Energall, Inc. (1T89 to 91).

Dr. Buchanan also explained the purpose of the temporary operation authorizations [TOA's] issued to the appellant facilities on May 9, 1978 (DEP-1 through DEP-4). He stated that the TOA's were issued to provide for an interim period of operation, prior to full approval being granted, while engineering plans were prepared and submitted to the DEP (1T98-9 to 18). The TOA's were subject to the recipients compliance with DEP rules and regulations, the handling of certain specified wastes, and the submission to the DEP of engineering designs and reports within four (4) months (1T99-7 to 14). In any event, the TOA's provided that they would expire on April 30, 1979 (1T100-19 to 21). The engineering designs required to be filed within four (4) months were not filed in a timely fashion by the appellants. In November of 1978, Dr. Buchanan met with Leif

Sigmond concerning this deficiency (1T102-6 to 25). It also appears that the appellants failed to submit an environmental impact assessment within the time specified in a DEP request (1T103-15 to 23). Later in November of 1978, certain materials were submitted to the DEP on behalf of the appellants, but the department found them to be inadequate (1T105). Environmental impact statements were not received by the DEP until late in April of 1979 (1T108).

Dr. Buchanan further testified that he had been at both sites, Newark and Carlstadt, on several occasions. These included recent visits in May and late June of 1979 (1T110). In describing the Newark site, 411 Wilson Avenue, the witness indicated the presence of haphazardly stacked, corroded and leaky drums (references to "drums" herein are to 55 gallon metal drums used for the storage of chemicals). The drums and tank trailers were without secondary containment, the purpose of this technique is to preclude penetration of pollutants into the ground water of the State (1T111-1T112). The drums, approximately 3,000 in number, were not segregated by waste type and only about 15% were palletized (2T7-2T13). The purpose of segregation is to prevent the intermixing of reactive chemicals; palletization, that is placing drums on wooden pallets, provides ease in handling and facilitates the isolation and cleanup of spills.

The Carlstadt site was also identified. It is situated on Paterson Plank Road, across from the Meadowlands race track (2T38). According to this witness there were a large number of haphazardly stacked, leaky, spilling, and corroded chemical drums on site during his visits on May 30, 1979 and in June of 1979. There was no palletization and no apparent segregation by waste type (2T38-2T40). The chemicals handled at this location include mixed solvents, such as ketones, alcohols, toluene, some chlorinated residues and phenolic resins (2T42). Dr. Buchanan indicated that the appellants' manner of storage of these chemicals was neither safe or environmentally sound (2T42).

Peach Island Creek, a tidal waterway, classified "TW2" by the DEP, abuts the rear of the property. Dr. Buchanan testified that he observed a petrochemical like material discharging from the bank of the appellants' property into the watercourse (2T54-2T55).

In 1977 the DEP wrote to appellants and requested a cleanup of the sites, but Dr. Buchanan indicated that compliance with these directives has not been forthcoming (2T57 to 2T59). In fact, several of the original offending conditions, particularly with respect to drum storage, persist to the present day.

Prior to April 30, 1979, the date of the expiration of the TOA's for the facilities, the DEP took the position that such temporary authorizations should not be renewed. The reasons for this decision included on-site conditions, the past history of the site and allegations of illegal activities (2T72 - 2T75). The alleged illegal activities are more particularly set forth in a criminal indictment of Scientific Chemical Processing, Inc., Herbert G. Case, Leif Sigmond and Mack Barnes charging them with certain crimes related to their handling of chemical wastes [DEP-8], and according to this witness went to the "reliability" of the operators (2T84). The lateness in filing required documents as well as the failure to cleanup spills were also factors (2T81-2T82). The mailgrams issued by the DEP on April 30, 1979, were intended to advise the appellants that their TOA's had expired on May 1, 1979 (2T91). Dr. Buchanan further stated that as of the date of the hearing, June 28, 1979, it was the DEP's position that new TOA's should not be issued for these operators (2T84).

On cross-examination, Dr. Buchanan stated that the chemical waste field is dynamic and evolving, and that spills and cleanups are industry wide problems (2T99-2T100). At the Newark site, some recent attempts at palletization were observed (2T106). The witness indicated that the preferable way of handling hazardous wastes was resource recovery and recycling, the business conducted by the appellants. There is only one commercial landfill in the entire state that is available for hazardous waste disposal [2T118], and a considerable amount of waste generated in New Jersey is disposed of out-of-state (3T31). On redirect, the witness indicated that a facility known as "Earthline" located in Newark was an alternative to the appellants' operations (4T57).

Dr. Buchanan indicated that 33 TOA's were issued in 1978, and that about 22 were issued for the current year. Of these 22, none had their full engineering designs approved (2T129, 2T138, 2T139). He further indicated that the DEP had not adopted specific administrative rules requiring palletization, stabilization and/or segregation, but that these were imposed as conditions in new TOA's (2T148).

observations: on August 29, 1978, he observed a multi-colored liquid, similar to gasoline or petrochemical, seeping into Peach Island Creek from appellants' property [4T91]; between August 28, 1978 and April 29, 1979, he observed no substantial improvement in drum and waste storage at Carlstadt [4T94]; when offending conditions were indicated to company officials they indicated that is the way they did things or that everybody does it that way [4T103]; no substantial improvements over time were observed at the Newark site (4T112). Mr. Smadja also noted that there were no observable differentiation or separation of the three (3) facilities in Newark (4T126-4T127). As a result of the continual chemical spills and leaks, the poor housekeeping, and the inattention to cleanups, Mr. Smadja, in April of 1979, recommended that appellants TOA's should not be renewed and they should be closed (DEP-39, DEP-42, DEP-43, DEP-52).

Subsequent inspection of both sites by Mr. Smadja in May of 1979 indicated that the on-site conditions had not changed. Spills, leaks and poor housekeeping respecting these toxic and hazardous chemicals was prevalent at Newark and Carlstadt (5T4, 5T18). On the basis of these subsequent inspections, Mr. Smadja was asked for his opinion concerning appellants' continued operations:

A: I would recommend that they would be closed and not issued a TOA.

Q: Why?

A: Based on their ability to maintain a clean, safe operation, for their history of accepting material without proper documentation and for the lack of improvement in their sites and the threat of environmental harm due to their poor housekeeping and operations.

Q: What do you mean when you say "based on their ability to maintain a clean, safe operation"?

A: It appears from their track record as far as I can see that they either cannot or care not to maintain the operation in a safe manner.

Materials are haphazardly handled causing spillage. Materials are stored inadequately causing spillage directly on the ground and their general lack of overall concern about the problems (5T26-5T27).

On cross-examination, Mr. Smadja compared operations at Marisol, another chemical waste facility, to those of appellants' (6T29). He indicated that while there may be some leaks from time to time at Marisol, they are promptly

Another line of inquiry that was pursued by appellants concerned the DEP's treatment of other chemical waste operators. This approval was apparently designed to demonstrate disparate or discriminatory enforcement practices. While no attempt by the appellants was made to show that these other situations were truly comparable, it was evident, from even this brief examination, that appellants had not been singled out or discriminated against. What emerged from the testimony was a clear impression that the Solid Waste Administration was an active and vigilant enforcement agency, that given limited resources, had brought legal actions against a number of waste operators, and refused to "renew" TOA's when it deemed conditions warranted such action (2T156-9 to 16; 2T162-24 to 163-3; 3T105; 4T37-4T38). In general, where a criminal investigation was in process, the DEP would not interfere in such a way as might prejudice any criminal action (3T47).

Dr. Buchanan also indicated that the review of engineering plans for chemical waste facilities was a lengthy and detailed process. There are two full-time engineers and an environmental specialist assigned to the process, and it takes about ten (10) months to complete (3T64; 8T8).

2. Testimony of George Smadja

George Smadja, an environmental specialist, has been employed by the DEP for the past two-and-a-half (2-1/2) years. His duties included the inspection of special waste facilities, and in the course of his official responsibilities he visited the appellants' facilities in Newark and Carlstadt (4T87). Copies of a number of his inspection reports, memoranda and photographs were introduced in evidence (DEP-39 to DEP-49).

The witness worked from his inspection and other reports in describing conditions at the appellants' facilities. The thoroughness of his testimony as well as his demeanor made him a very believable and convincing witness. Without reviewing each inspection in detail, Mr. Smadja indicated each of the appellant facilities had continual leaks and spills from chemical drums, practiced poor housekeeping and handled chemical wastes in an unacceptable manner. In addition, company officials demonstrated a lack of concern when these conditions were called to their attention. To highlight some of these

cleaned up. Marisol makes an effort to keep the spillage to a minimum and cleans it up. On the other hand, the appellants' drum storage is less neat, the drums are in worse physical conditions, many are heavily rusted, tops are open and spilled material is not readily cleaned up (6T29, 6T33).

3. Testimony of Maxon Tan

Maxon Tan is a senior environmental engineer employed by the DEP, Division of Water Resources (6T44). He holds a Bachelor's Degree in Mathematics from the Massachusetts Institute of Technology and a Master's Degree in Mathematics from the New York University (6T46).

On January 19, 1979, Mr. Tan inspected the SCP facilities in Carlstadt in response to information that a chemical spill had occurred at the site (6T47). The witness collected samples from the outfall pipe discharging into Peach Island Creek [6T50], directly from the creek underneath the outfall pipe [6T51], from a diked area on appellants' property, and from the sludge on the iced waterway (6T52). These samples were analyzed and the results indicated the presence of the following chemicals: in the outfall pipe, toluene and M, p xylene; in the creek underneath the outfall, chloroform, benzene, trichloroethylene, tetrachloroethylene, toluene, M, p xylene and o-xylene; and in the diked area, trichloroethane, benzene, trichloroethylene, MIBK, tetrachloroethylene, toluene, M-xylene, O-xylene, styrene, and MEK. Similar chemicals were found in the sludge sample (6T57 to 6T60). These samples indicated that a spill had occurred, since these compounds are not normally found in nature (6T62).

4. Testimony of Dhun B. Patel

Dr. Dhun B. Patel, an environmental scientist, employed by the State Department of Health, testified on behalf of the DEP (7T20). This witness held a Ph.D. in medicinal chemistry from the University of Iowa and had completed post-doctoral research in this field at Columbia University. He also taught courses in environmental toxicology and medicinal chemistry at Columbia (7T22). Toxicology was defined as the science that deals with poisons and the effects of chemical substances on the organism. Medicinal chemistry deals with the structure activity relationships of potential

potential pharmaceutical compounds (7T22). Dr. Patel was accepted as an expert in the fields of toxicology and medicinal chemistry (7T25).

The witness classified chemicals into three (3) groups. The first group included chemicals where are cancer-causing in humans or are strongly suspected of being human carcinogens [produce cancer]; the second group consisted of chemicals which are animal carcinogens, and those which cause mutations or birth defects; and the third group for which acute toxicity data and limited toxicity may be available (7T25 to 26). Dr. Patel testified that for the first and second group of chemicals there was no "threshold", since even at the smallest amounts of exposure, an increased risk of cancer results (7T27).

Working from manifests filed by the appellants with the DEP, Dr. Patel indicated the properties the chemicals handled by them might have if released in the environment. These included skin and eye irritation; blindness; effects on the liver, kidney and central nervous system; effects on the mucous membranes and on the respiratory tracts; effects on the heart; and blood disorders. He specifically identified the halogenated organics, carbontetrachloride, trichloroethylene, tetrachloroethylene, as carcinogenic [that is, produces cancer] chemicals; where no exposure could be deemed as acceptable (7T29). Other chemicals handled by appellants such as chloroform, perchloroethylene, and benzene were also identified as carcinogenic (7T54; 7T69). Benzene was identified as being known to cause leukemia (7T70). Dr. Patel referred to the laboratory sheets analyzing the sample collected by Mr. Tan at appellants' facility following the spill on January 19, 1979, and noted the presence of toxic and carcinogenic chemicals (7T69 to 7T75).

This witness also testified that certain portions of the population, infants and pregnant women, were more sensitive to exposure from these chemicals (7T80). Dr. Patel indicated the need to handle these chemicals with extreme caution to protect the public from their effects. With respect to the carcinogenic chemicals, precautions must be taken to prevent their being discharged into the environment at any amount, at any level (7T81).

At this point, the State rested its case (7T91). Because of the procedural nature of the proceedings, and to afford the appellants an opportunity to

prepare their response, the Administrative Law Judge offered to adjourn the hearings for this purpose (7T92 to 7T95). Without prejudice to their argument that the DEP failed to provide a specification of charges prior to the hearing, appellants proceeded with their case three (3) days later on July 13, 1979.

APPELLANTS' WITNESSES

1. Testimony of Linda Hahn

Linda Hahn,, a biller and office employee of Scientific Chemical Processing, was the first witness called by appellants (8T12). She testified that during the past year she sent 1,437 manifests to the DEP (8T13). As materials were received on site, Ms. Barnes verified their receipt and manifest documentation was filled out (8T15).

2. Testimony of Carl Ling

Carl Ling, the president and chief operating officer of Presto, Inc., also testified for appellants (8T17). In the past, he has held other positions at the Newark and Carlstadt facilities. He indicated that at Carlstadt there was a thin film unit which handles paint solvents from the paint industry. Another part of the Carlstadt operation recovers methanol and phosphoric acid. The methanol is returned to Harmon Colors and the acid is sold (8T18). Mr. Ling further testified that in 1977 there had been 20,000 chemical drums at the Carlstadt location and that this has been reduced to approximately 3,000 (8T20 to 8T21).

The operations in Newark were also described by this witness. Scientific Chemical Processing [SCP] was a distillation process for fuel blending. Energall consists of a storage facility for material turned over by SCP. Presto, Inc. handles chlorinated solvents. There is one large shop area and the maintenance personnel work out of Newark. The offices are joint, except for Presto; the secretaries are shared by all three (3) operations. Mr. Barnes runs both plants (8T21 to 8T23). The owners of the three (3) corporations are the same and the entities work together (8T26). Mr. Ling

also indicated that a program had been undertaken to palletize the drums at the Newark location (8T35), and that there was a substantial reduction in the number of drums at Carlstadt (8T40).

On cross-examination, Mr. Ling stated he was responsible to Leif Sigmond and Dominic Presto, who are the owners of Presto, Inc. Sigmond and Presto also own Energall and Scientific Chemical Processing. Presto, Inc. was incorporated in 1975, but did not commence operations until January 1978. Energall, a sales organization for fuels blended by SCP, commenced operations around 1972 (8T58 to 8T60). In describing the point in time when Energall receives the materials from SCP, Mr. Ling conceded: "It is really sort of a blurred thing where they receive the materials" (8T62). Mr. Sigmond would have responsibility with respect to "high gravity" decisions for all three (3) corporations (8T66). Mr. Ling also acknowledged that it was a "good procedure" in the industry to stack drums neatly, to prevent leaks and spills, to clean up leaks and spills when they occur, to segregate the drums by waste type, and to have secondary containment under the drums (8T87 to 8T88). According to Mr. Ling, Presto, Inc. primarily handles methylene chloride, trichloroethylene, perchloroethylene and 1-1-1 trichloroethane, some of which were specifically identified as carcinogenic by Dr. Patel (8T95).

3. Testimony of Albert Gathman

Albert Gathman, a consultant chemist, had worked for forty years in various capacities for the Esso and Exxon Companies. He holds a Bachelor of Science degree from Brooklyn Polytechnical Institute (9aT2). Mr. Gathman has been a consultant for the appellants for approximately one (1) year (9aT4).

Mr. Gathman described the appellants' chemical processes. In Carlstadt the appellants use a thin film evaporator and a still for recovery work. Methanol and phosphoric acid are recovered and sold. In Newark, stills, settling and storage tanks are used in the recovery process. Solvents are recovered and sold, and the materials that cannot be reclaimed are sold as fuel (9aT5). Most recently, this witness visited the Carlstadt site on one day in June of 1979, and visited the Newark site on two (2) days, during that month (9aT7). On the basis of his background and experience, Mr. Gathman was accepted as an expert in chemistry and chemicals. The witness was not

found to have sufficient expertise with respect to the effect of those chemicals on the environment to qualify in the area of "environmental chemistry" (9aT17; 9aT38 to 9aT42).

Mr. Gathman proceeded with his description of the appellants' facilities. SCP recycles and reclaims products for industry and they are a large operation in their line of business. They do business with companies like Union Carbide and duPont (9aT20 to 9aT21). He testified that closing down the appellants' facilities would be "bad" for the industries they serve and that the materials that are presently recycled would have to be disposed of by other means. The cessation of these operations would also have an adverse impact on the energy situation, because the waste chemicals that are blended into fuels or fuel supplements by appellants would have to be replaced by other sources of energy (9aT45 to 9aT46).

On cross-examination, Mr. Gathman stated that he had visited the Carlstadt site on or about June 6, 1979, prior to that one year ago, and prior to that five (5) years ago. As far as the Newark site was concerned, the witness stated that he had not been there as often as Carlstadt, although he was there on two (2) full days in June of 1979 (9aT54).

4. Testimony of Charles E. Gingrich

Charles E. Gingrich, an employee of the DEP in charge of the registration section of the Solid Waste Administration, was subpoenaed by the appellants (9aT69). Mr. Gingrich indicated that on April 30, 1979, he accepted, for review, registration applications filed by appellants (9aT70). The witness explained that his action did not represent any approval of the applications, only that they had been received and were placed in the agency's review process (9aT72).

5. Testimony of Richard A. Peluso

Richard A. Peluso also testified on behalf of the appellants. He received a Bachelor's in Civil Engineering, with a major in sanitary and public health engineering from Manhattan College, and a Master's Degree in sanitary engineering from New York University (9aT74 to 9aT75). He has been employed by the New York

State Department of Health and the Orange County Department of Health. Mr. Peluso holds professional engineer's licenses in New York, New Jersey, and Pennsylvania. In 1972, he joined Wheran Engineering Corporation, a company that specializes in solid and hazardous waste disposal (9aT76). He is currently Senior Vice President of that corporation. The witness has served as a consultant to the United States Environmental Protection Agency, and has prepared and signed plans for many of the solid waste management facilities in New Jersey (9aT78). Wheran Engineering represents the three (3) largest solid and hazardous waste firms in the country (9aT79). Mr. Peluso was accepted as an expert in environmental engineering and the handling of solid and hazardous wastes (9aT83).

Mr. Peluso was only recently retained as a consultant by the appellants. He visited both sites on June 25, 1979 and July 6, 1979. On July 12, 1979, four (4) days before testifying, he spent most of the day at the Newark location (9bT8 to 9bT9, 9bT20). He stated that appellants process approximately seven-and-a-half (7-1/2) million gallons of material each year. Of this amount, three-and-a-half (3-1/2) million gallons are returned to industry as blended fuels, primarily to a kiln in New York State; approximately one million gallons of methanol and phosphoric acid, and approximately one million gallons of paint thinners are also recycled (9bT9 to 9bT10). According to the witness, this processing is extremely important from economy and energy viewpoints (9bT10). Mr. Peluso recommended that operations should not be closed down (9T16).

Mr. Peluso acknowledged that he had not been at either site before June of 1979, and that his testimony did not directly concern conditions or occurrences prior to that date. He had not participated in the preparation of any plans submitted by appellant to the DEP, nor had he been requested to prepare any such plans (9bT20 to 9bT21). While Mr. Peluso stated that there was some dispute as to what chemicals are carcinogenic, he conceded that some chemicals handled by appellants do indeed fit into this category (9bT30).

6. Testimony of Robert F. Kelley

Robert F. Kelley holds Bachelor's and Master's Degrees in Chemical Engineering from Manhattan College. He has been employed by Union Carbide in

various positions since 1968. Between February of 1975 and May 1979 he had been assigned to Union Carbide's Environmental Protection Department where he has responsibility for chemical waste and water pollution aspects (10T4). Recently, he moved to Washington, D.C. to represent Union Carbide's interest before the Congress and the regulatory agencies (10T6 to 10T7).

Mr. Kelley appeared and testified as an independent consultant on appellants' behalf (10T15). Union Carbide, his primary employer, was and continues to be a customer of Scientific Chemical Processing; that is, Union Carbide brings a portion of its wastes to SCP for disposal (10T14, 10T15). While Mr. Kelley stated that he was not instructed to appear by anyone at Union Carbide, he admitted that officials of that company knew he was testifying for SCP and that roughly 75% of the wastes generated by Union Carbide's Bound Brook plant is disposed of at SCP (10T15, 10T21). This relationship between Mr. Kelley's primary and secondary employers, was troubling, particularly where the possible cessation of SCP's operations might cause adverse economic harm to Union Carbide, albeit in a relatively minor manner. Nonetheless, the witness was accepted as an expert in chemical engineering and the environmental handling of hazardous wastes (10T22).

Mr. Kelley had visited the SCP facilities about twice a year since 1975 in his capacity as a representative of Union Carbide (10T17). He was not hired as a consultant by the appellants until April of 1979 and did not commence his "survey" until June of 1979 (10T70 to 10T71). Recently, he visited the facilities on June 2 and June 23, 1979 (10T38). Mr. Kelley stated that closing these operations down would have an adverse impact on both the energy and environmental situation, as well as constitute an economic burden on the waste generators, and especially on Union Carbide (10T35; 10T58; 10T68).

7. Testimony of Sabetay Behar

Sebetay Behar, a licensed land surveyor and professional planner, was also called by appellants (10T22). He indicated that in the course of performing a land survey for appellants, he located an overflow swale on property adjacent to appellants' Carlstadt site (10T23). Mr. Sabetay conceded that he did not know if there was such swales or crevasses on the SCP property,

since he had not looked for them (10T26).

IV: DISCUSSION OF LAW

a. Solid Waste Management Act; Nature of Proceedings

The discussion and resolution of the questions of law raised in this proceeding require that the nature and parameters of the hearing be defined. This hearing was held in response to an Order of the Appellate Division issued on June 15, 1979, in an action entitled: In re: Order Denying Temporary Operating Authorization for Facilities Owned and Operated by Energall, Inc. et al., Docket No. AM-678-78. That Order required that a plenary hearing be promptly conducted respecting the DEP's failure to renew the appellants' TOA's and its directions, that the handling of "special waste", that is, toxic or hazardous waste [N.J.A.C. 7:26-1.4], and "solid waste disposal" cease after April 30, 1979 (OAL-1; SCP-1). Other disputes and differences of opinion may exist between the parties; however, these were not the subject matter of this contested case.

In accordance with N.J.S.A. 13:1E-11, the DEP issued Temporary Operating Authorizations [TOA's] to appellants' four (4) operations: Scientific Chemical Processing, Inc. [Newark], Scientific Chemical Processing, Inc. [Carlstadt], Presto, Inc., and Energall, Inc. (DEP-1 to DEP-4). Each of the four (4) TOA's was dated May 9, 1978, and expressly provided:

This Temporary Operating Authorization expires on April 30, 1979 and is non-transferable. It is NOT a Certificate of Approved registration to operate a special waste facility. It authorizes only temporary operation of said facility until April 30, 1979 or until Engineering Designs for said facility are reviewed and approved or denied by the Solid Waste Administration, whichever may first occur. No registration for said facility as required pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., can be issued until the Engineering Design, as required in accordance with the Conditions set forth within this Temporary Operating Authorization are approved by the Solid Waste Administration.

In addition, each TOA was conditioned on the compliance with specified limitations as to acceptable waste types; the submission of an engineering design within four (4) months, that is, by September 9, 1978; and the compliance with DEP rules and regulations.

At the outset, it is essential to distinguish a TOA from a "registration". See N.J.S.A. 13:1E-5. Appellants merely held TOA's, and the DEP contended that these temporary authorizations expired by their own terms on April 30, 1979. After unsuccessful attempts to resolve their differences, the appellants were notified by telegrams dated May 1, 1979 that their TOA's had in fact expired and they were directed to cease handling "special wastes" (SCP-1). While the DEP did not offer to hold a hearing prior to, or following, its determination, as may have been arguably required by law [see N.J.S.A. 52:14B-11], the instant plenary hearing has in fact been conducted in accordance with the Order of the Appellate Division.

Appellants argue that they were entitled to a specification of charges and were unfairly surprised by the testimony of the State's witnesses. Their reliance on N.J.A.C. 7:26-5.4(f) appears misplaced as that administrative rule applies to hearings conducted pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and particularly to situations in which the DEP has issued an administrative order (N.J.A.C. 7:26-5.3(b)). Such was not the case here, where the hearing was held in accordance with the terms of the Appellate Division's Order of Remand.

In any event, during the course of the hearings, serious efforts were made to avoid any unfair advantage or surprise of which the appellants' complain. A prehearing conference was held and the factual and legal issues were identified, and the DEP was directed to present its case first (OAL-10). Thereafter, the Administrative Law Judge offered appellants numerous opportunities to defer and delay their cross-examination and the presentation of their case until they had a full opportunity to prepare (5T78; 7T92 to 7T95). In fact, at the close of the DEP's case, appellants requested and were granted a two (2) day adjournment for this purpose. Thus, any surprise, lack of notice, or unfair advantage, was cured during the proceedings.

A review of the competent and credible evidence adduced at the hearing clearly demonstrates that appellants were dilatory in filing the required engineering designs and other documents [see N.J.A.C. 7:26-2.12 et al.]; and have violated environmental statutes and rules in their storage and handling of toxic and hazardous wastes, including those having carcinogenic properties.

While some efforts have been made to remedy these offensive conditions on the eve of the commencement of the hearings, those actions must be weighed against a pattern of conduct spanning a period of more than a year. On that basis alone the DEP would have been justified in refusing to issue a new TOA to the appellants; however, in further support of its determination, the DEP relied on the criminal indictment of Scientific Chemical Processing, Inc., and three (3) of its officers or employees, Herbert G. Case, Leif R. Sigmond, and Mack Barnes, for violation of anti-pollution statutes (DEP-8). Further discussion of the indictment and the weight accorded to it by the Administrative Law Judge is provided hereinafter.

b. Discrimination; Selective Enforcement

Appellants also argue that they have been the victims of discriminatory and unequal treatment by the DEP (Ab*30). Their selective enforcement argument, unsupported by citation to legal authority, primarily rests on their identification of a few leaky drums at Marisol, another waste facility.

The evidence failed to support appellants' assertions. Initially, appellants were unable to show that conditions at other facilities were fairly comparable to their own. With respect to the DEP's treatment of Marisol, Mr. Smadja, a DEP solid waste inspector, testified that Marisol's operations were generally tidy and clean, their drum storage area was neat, spills were cleaned up without delay, and diking and containment was evident (5T130). DEP issued a new TOA to Marisol but did not to a number of other facilities. Additionally, the agency has sought civil and criminal enforcement actions against other special waste facilities where it deemed that such relief was required (2T156; 2T162 to 2T163; 3T105; 4T37 to 4T38). See Hyland v. Smollick, 137 N.J. Super. 456, 462-463 (App. Div. 1975), certif. den. 71 N.J. 328 (1976) (where even in a criminal law context the rare or sporadic enforcement of a statute was found not to constitute the type of selective prosecution that contravenes equal protection).

Thus, appellants' discrimination - selective enforcement argument is clearly without merit.

c. The Indictment

Scientific Chemical Processing, Inc., Herbert G. Case, Leif Sigmond and Mack Barnes were indicted for violation of anti-pollution statutes in connection with the operations at the 411 Wilson Avenue, Newark, facility (State Grand Jury Number S.G.J. 51-78-2). The indictment was received and marked in evidence (DEP-8).

Herbert G. Case, Leif Sigmond and Mack Barnes hold significant management and decision-making positions in the appellants' operations (8T15; 8T23; 8T58; 8T66). Apparently, one of the factors considered by the DEP, Solid Waste Administration, in deciding not to issue a new TOA to the appellants' facilities was the outstanding indictment. Dr. Buchanan, Chief of the Bureau of Hazardous and Chemical Wastes, testified that in addition to the operational and environmental problems, the agency considered the indictment as a factor in its determination (2T82). While Mr. Smadja, a DEP inspector, may have been aware of the indictment, his recommendation that the operations be closed appears to have been independently based on the conditions on-site and the failure to prepare and file necessary documents (5T26; 5T27).

The DEP argues that the indictment goes to the "responsibility and reliability" of the appellants to comply with environmental standards (2T84; 2T78; 4T25; DEPb*28). It is their position that this requirement is implicit in the Solid Waste Management Act [see particularly N.J.S.A. 13:1E-5], and that prior to registration the DEP is obligated to consider this factor.

In support of this position, DEP relies on Trap Rock Industries v. Kohl, 59 N.J. 471 (1971), cert. den. 405 U.S. 1065, 92 S. Ct. 1500, 31 L. Ed 2d 796 (1972). In that case the State Commissioner of Transportation suspended a corporate contractor from bidding on State contracts because of the indictment of its president and chairman of the board of director. In upholding the Commissioner's right to suspend the contractor, pending the outcome of the criminal charges, the Court observed that the contractor's right to engage in business was not involved. While the State might refuse to do business with the contractor because of the indictment, other persons were not precluded from dealing with him. Trap Rock, supra, 59 N.J. at 478. In the instant case,

EQUIP. NO.	CAPACITY GALLONS	INVENTORY GALLONS	MATERIAL	Likely Disposal Methods
T-1	15,000	3,000	#2 Fuel Oil	A-2,3,4
T-2	10,000	2,000	#2 Fuel Oil	A-2,3,4
T-11	8,000	Empty		
T-12	3,000	Empty		
T-25	6,000	6,000	T-2000 Water B-4000 Fuel Residue	B-1,2,3,4 A-1,2,3,4
T-26	5,000	5,000	Crude (Thinner)	See Page 2
T-27	6,000	6,000	T-500 Water B-5500 Fuel Residue	A-1,2,3,4 B-1,2,3,4
T-28	3,000	500	Crude Fuel Water	A-1,2,3,4 & B-1,2,3,
T-29	5,000	5,000	Methanol/Water	B-2
T-30	5,000	5,000	Methanol/Water	B-2
T-31	10,000	10,000	T-8000 Water B-2000 Fuel Residue	B-1,2,3,4 A-1,2,3,4
T-32	10,000	9,500	T-500 Water B-9000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
T-33	10,000	10,000	T-2000 Fuel M-2000 Water B-6000 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-34	10,000	10,000	T-Fuel B-8000 Fuel Residue	A-2,3,4 A-1,2,3,4,5
T-35	10,000	10,000	T-5000 Fuel M-1000 Water B-Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-36	10,000	10,000	T-5000 Fuel M-1000 Water B-4000 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-37	10,000	10,000	T-5000 Water B-5000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
T-101	14,000	14,000	T-9000 Water B-9000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
T-102	14,000	14,000	T-500 Oil M-3000 Water B-1000 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5

EQUIP. NO.	CAPACITY GALLONS	INVENTORY GALLONS	MATERIAL	Likely Disposal Method
T-103	15,000	15,000	Sodium Sulfate Solution	A-6
T-104	5,000	4,000	T-20 Water B-2000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
T-105	5,000	1,500	Fuel Residue	A-1,2,3,4,5
T-106	5,000	2,000	Fuel Residue	A-1,2,3,4,5
T-107	5,000	1,000	Fuel Residue	A-1,2,3,4,5
T-108	6,000	2,500	Fuel Residue	A-1,2,3,4,5
T-109	6,000	500	Fuel Residue	A-1,2,3,4,5
T-110	4,300	4,000	Fuel Residue	A-1,2,3,4,5
T-111	8,000	7,600	T-6000 Water/trace oil B-7000 Latex	A-2,4 A-5
T-112	8,000	2,000	Fuel Residue	A-1,2,3,4,5
T-113	8,000	1,000	Fuel Residue	A-1,2,3,4,5
T-114	7,000	7,000	T-4000 Water/trace oil B-3000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
T-115	7,000	.000	T-3000 Fuel Blend B-3000 Fuel Residue	A-2,3,4 A-1,2,3,4,5
T-116	20,000	20,000	Fuel Residue	A-1,2,3,4,5
T-117	20,000	20,000	T-3000 Fuel M-4000 Water B-13,000 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-118	20,000	19,000	T-6000 Water B-13,000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
T-119	13,000	3,000	Fuel Blend	A-2,3,4
T-200	5,000	1,500	Fuel Residue	A-1,2,3,4,5
T-201	10,000	8,000	T-5000 Water B-3000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
T-202	5,000	1,500	Fuel Residue	A-1,2,3,4,5
WTS-1	4,000	Empty
WTS-121	5,700	3,000	Crude Methanol Phosphoric Acid	See Page 2

December 16, 1980

SCP, Inc., Carlstadt, N.J.

ATTACHMENT # 3

EQUIP NO.	CAPACITY GALLONS	INVENTORY GALLONS	MATERIAL	LIQUID DISPOSAL METHOD
VTS-33	4,500	Empty	Empty	
VTS-5	3,500	3,500	Crude Fuel Water	A-1,2,3,4,5 & B-1,2,3
VTS-402	3,000	3,000	Methanol/Water	B-2
VTI-8	2,500	Empty	Empty	
VT-14	6,000	4,000	Thin Film Bottoms	A-2,3,4
VT-7	4,000	3,000	Water from Treater Tanks	See Page 2
VT-183	6,200	4,000	Fuel Residue	A-1,2,3,4,5
VT-23	6,200	1,500	Thin Film Bottoms	A-2,3,4
VT-21	6,200	1,500	Thin Film Bottoms	A-2,3,4
VTS-4	1,600	Empty	Empty	
VTS-219	3,000	2,500	Methanol/Water	B-2
VTS-2	4,000	500	Fuel Residue	A-1,2,3,4,5
VTS-65	5,400	5,000	Methanol/Water	B-2
VT-100	4,500	4,000	Fuel Blend	A-2,3,4
Sludge Box		2,500	Sludge	A-1,2,3,4,5

35, 000

September 16, 1980

SCP, Inc., Newark, N.J.

ATTACHMENT #3

TANK NO.	MATERIAL	VOLUME (gallons)	LIKELY DISPOSAL METHOD
T-23	Fuel Blend Bottoms	3,000 T-200 Fuel M-550 Water B-2250 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-24	Fuel Blend Bottoms	3,000 T-200 Fuel M-500 Water B-2250 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-25	Fuel Blend Bottoms	3,000 T-200 Fuel M-500 Water B-2250 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-21	Fuel Blend Bottoms	3,000 T-200 Fuel M-500 Water B-2250 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-22	Fuel Blend Bottoms	3,000 T-200 Fuel M-500 Water B-2250 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5
T-8	Aqueous solution containing solvent & fuel residues (ketones, alcohols, esters, aromatic & aliphatic hydrocarbons)	10,000	B-1,2,3,4
T-28	Fuel Residue	500	A-1,2,3,4,5
T-26	Fuel Residue	500	A-1,2,3,4,5
T-20	Fuel Residue	1500	A-1,2,3,4,5
T-29	Fuel Residue	1500	A-1,2,3,4,5

TRAILERS	MATERIAL	VOLUME(gallons)	LIKELY DISPOSAL METHOD
VTS-64	*Mixed Solvent Crude, (detones, alcohols, esters, aromatic & aliphatic hydrocarbons, of varying concentration)	4,500 T-1000 Mixed Solvent* M-1500 Water B-2000 Fuel Residue	A-2,3,4 B-1,2,3,4 A-1,2,3,4,5

December 14, 1980

SCF, INC., Newark, N.J.

ATTACHMENT - 3

TRAILERS	MATERIAL	VOLUME (gallons)	LIKELY METHOD OF DISPOSAL
VT-11	WATER	4,500	
VT-202	Fuel Blend/Water	3,000 T-2000 Water B-1000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
VT-20	Fuel Blend (Heavy)	6,000	A-2,4
VT-6	Empty	Empty	
VT-136	Empty	Empty	
VT-13	Water	4,000 T-2000 Water B-2000 Sludge	B-1,2,3,4 A-1,2,3,4,5
173	S/S without chassis	Empty	
VT-3	Empty	Empty	

STILLS	MATERIAL	VOLUME (gallons)	LIKELY DISPOSAL METHOD
S-21	Fuel Residues	5,000	A-1,2,3,4,5
S-22	Mixes Solvent Crude (ketones, alcohols, esters, aromatic & aliphatic hydrocarbons of varying concentra- tions)	10,000 T-3000 Water B-7000 Fuel Residue	B-1,2,3,4 A-1,2,3,4,5
S-23	Empty	Empty	
S-27	Resin	3,000	A-2,4
Sludge Box	Sludge	2,500	A-1,2,3,4,5
Sludge Box	Sludge	3,000 T-500 Water B-2500 Sludge	B-1,2,3,4 A-1,2,3,4,5

December 16, 1980

Energall, Inc., 411 Wilson Ave., Newark, N.J., 07105

BULK INVENTORY

BULK	MATERIAL	VOLUME (gallons)	LIVELY DISPOSAL METHOD
T-31	Fuel Blend/Water	5,000	A-1,2,3,4,5 & B-1,2,3
T-32	Fuel Blend/Water	5,000	A-1,2,3,4,5 & B-1,2,3
T-33	Fuel Residue	500	A-1,2,3,4,5
T-34	Water (from fuel blending)	9,500	B-1,2,3,4

September 18, 1990

Fresto, Inc., 411 Wilson Ave., Newark, N.J. 07105

BULK INVENTORY

#	CAPACITY	INVENTORY (gallons)	MATERIAL	LEGAL DISPOSAL METHOD
T-1	5,000	3,000	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-2	2,000	1,500	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-3	2,000	1,500	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-4	5,000	3,000	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-5	5,000	2,000	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-6	5,000	4,000	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-7	5,000	4,000	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-11	3,000	1,000	Crude Perchloroethylene	Dist. II
T-12	3,000	1,000	Oil/Water	A-1,2,3,4,5 & B-1,2,3
T-13	3,000	500	Water	B-1,2,3,-
T-14	2,000	Processing tank for non-waste manufacturing		
T-15	300	Empty	Empty	
T-16	300	Empty	Empty	
T-18	300	Empty	Empty	
T-17	300	Empty	Empty	
T-19	1,000	Processing tank for non-waste manufacturing.		

AFFIDAVIT

STATE OF NEW JERSEY)
COUNTY OF ESSEX) .SS:

I, JAMES MORGAN, of full age, being duly sworn upon my oath according to law depose and say:

1. I am a Deputy Chief in the Fire Prevention Bureau of the Fire Department of the CITY OF NEWARK.

2. As a member of the Fire Prevention Unit, I am obligated to inspect property in the in CITY OF NEWARK to insure that it does not present a fire hazard or endanger the public.

3. Between April 19, 1982 and the present and pursuant to my official duties, I have inspected the property located at 411 Wilson Avenue in the CITY OF NEWARK on at least ten (10) occasions.

4. The property at 411 Wilson Avenue is located in an heavily industrialized section of the City. It is in close proximity to occupied buildings and is also located on a heavily traveled road in the CITY OF NEWARK.

5. At said property there is a two-story masonry main building which is acting as a storage facility for approximately 1200 55 gallons drums. Many if not most of these drums contain liquids and are labeled dangerous, flammable, or

explosive. In addition, there are drums stored in this building in sealed containers. The labels on these drums identify the contents as Cumene Hydroperoxide and recommend that the container not be stored in the sunlight. In fact, the drums are stored in direct sunlight next to a broken window.

6. Also at said property, there is a large yard area open to anyone who wants to enter these premises. The yard contains over two thousand (2000) 55 gallon drums. Most of these drums are full or partially full with liquids, most of which have labels of numerous types of chemicals and labeled flammable. In addition, many of these drums are corroding, leaking and falling onto other drums and/or onto the ground, contributing to the possibility that a chemical reaction may cause a fire or explosion.

7. In addition, there are numerous tank trailers located at the premises each of which are full or partially full with liquids and labeled flammable. Most of these trucks are early models, rusting out and in a dilapidated condition.

8. On or about January 18, 1983, I along with members of the Department of Engineering obtained samples from 5 drums. One sample was labeled Xylene, another Methane and a third Dyoril. Two other samples did wer not labeled. These samples were then taken to the Newark Police Laboratory and tested

A F F I D A V I T

STATE OF NEW JERSEY)

SS:

COUNTY OF ESSEX

WALTER JANICEK, of full age, being duly sworn upon his oath according to law, deposes and say:

1. I am employed as the Senior Enviromental Specialist in the Department of Engineering for the City of Newark.

2. As part of my official duties I inspect and investigate any and all complaints in regard to the illegal storage and dumping of chemicals which may be harmful to the environment.

3. On or about April 8, 1981, pursuant to my official duties, I inspected the property located at 411 Wilson Avenue in the City of Newark. Said building is located in a heavily industrialized section of the City, and on a major thoroughfare leading to Port Newark.

4. At the time of the inspection, I observed the following:

a. The courtyard outside the main building contained over 2,000 55 gallon drums stacked on pallets in a haphazard manner including approximately 100 lab packs. Most of these drums were full but unlabeled. Some were corroding,

as to flammability. Four of the five samples found inside the building were determined by the Police Laboratory to be highly flammable.

9. Furthermore, on each of these inspections I have observed the following Fire Code Violations:

- a. Inoperative Sprinkler System.
- b. Failure to obtain permits from the Fire Department to operate chemical Business.
- c. Failure to obtain permits to store flammable and hazardous chemicals.
- d. Improper storage of flammable and hazardous chemicals.
- e. Defective and improper installation of electrical wiring.
- f. Failure to install explosive proof wiring in the packaging area.

10. On each of the occasions which I inspected the premises, the conditions there have continuous worsened. The pallets on which the barrels are stacked have broken, causing the barrels to fall. In addition, as time passes, more barrels corrode and begin to leak their contents onto the ground.

James Morgan
JAMES MORGAN, CHIEF DEPUTY
NEWARK FIRE DEPARTMENT

SWORN AND SUBSCRIBED TO
BEFORE ME THIS 21 DAY
OF March, 1983.

Robert MacDONALD
ROBERT MacDONALD
Attorney at Law State of New Jersey

others rusting, causing some chemicals to spill onto the ground. Also, some drums contained red labels reading flammable and/or hazardous.

b. Outside the building there also were approximately 9-11 tanker trucks parked in the court yard. These trucks were old, without license plates, in a dilapidated and broken down condition. All these tanker trucks were either marked flammable or hazardous.

c. The yard where these chemicals were stored was open, allowing easy access to anyone including vandals.

5. On or about April 8, 1982, I reinspected the property, and was able to gain entry to the building located thereon.

6. At the time of that inspection I observed the following:

a. The building, dilapidated, open and vacant, contained approximately 1500 55 gallon drums of unidentified liquid materials. Many of these drums were labeled flammable, contain yellow and red labels indicating flammable and hazardous materials were contained therein; drums were corroding causing leakage.

b. In addition, there were puddles of what appeared to be and what smelled like solvent type chemical. In other areas of the building there were smells of aromatic chemicals which permeated the air.

c. Outside the building the conditions had worsened. Many of the drums began to collapse, spilling their contents into the soil. More barrels had corroded and pallets had collapsed causing the drums to fall onto each other and onto the ground.

7. On or about January 7, 1983, I inspected the premises once again. By this time the conditions had worsened and the dangers which the property created had increased dramatically.

a. Outside the building in the courtyard, the pallets on which these drums are stacked have literally collapsed as a result of the years of corroding, causing chemicals to spill into the ground and onto other drums, increasing the possibility

of an adverse synergistic reaction, which could cause a major fire. Since many of the barrels are not labeled, the problems of fighting this fire would be compounded.

b. Inside the building the danger of a major explosion is imminent. The building is not properly ventilated, is not equipped with a working sprinkler system and is improperly wired; the electricity is on. In addition there is evidence that someone is using the building to repair automobiles, and/or motorcycles. There is also a distinct solvent odor in the air emanating from what appears to be a spillage from the drums onto the floor.

c. On example of the haphazard manner in which these drums are stored is the location of a drum of dicumyl peroxide. The label indicates that this drum should be kept out of the sunlight and away from certain flammable materials because of the danger of an explosion. In fact, this drum of what is labeled as dicumyl peroxide is stored in direct sunlight.

d. On or about January 18, 1983, I along with Deputy Chief James Morgan obtained five (5) samples of liquids found in five (5) different drums from inside the building. These test were subsequently tested by a chemist for the Newark Police Department for flammability. These test resulted in the following conclusions:

1. Sample 1, labeled Xylene 153 and containing a yellow liquid was found to be highly flammable.
2. Sample 2, labeled Methane and containing a clear odorless liquid was found to be highly flammable.
3. Sample 3, labeled Black Plerm 153 SCA and containing a yellow liquid was found to be highly flammable.
4. Sample 4, labeled L 5g-1646-22 and containing a cloudy orange liquid was found non-flammable.
5. Sample 5, labeled Dyoril and containing a brown liquid was found to be highly flammable.

8. On or about March 8, 1983, I again reinspected the premises located at 411 Wilson Avenue. The conditions outside the building worsened. Inside the building, I confronted an individual who identified himself as Vlademir Roslik. Mr. Roslik indicated that he rented the building from Dominick Presto, the owner of the premises, whom he paid a monthly rent. Mr. Roslik further said that he was arranging for a shipment which was to be picked up by Augusto Trucking. It appeared that Mr. Roslik was transferring a liquid chemical from a 55 gallon drum marked cumene hydroperoxide into smaller 5 gallon containers. Evidence of this included these small containers next to the large drums; funnels in the small cans and labels from Nella Chemicals with a February 24, 1983 date on them; lying in close proximity to these cans.

9. The above statements are true. I understand that if any of these statements are willfully false, I am subject to punishment.


WALTER JANICEK

SWORN AND SUBSCRIBED TO
BEFORE ME THIS 4th DAY
OF April, 1983.


ATTORNEY AT LAW STATE OF NEW JERSEY



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF ENVIRONMENTAL QUALITY

SOLID WASTE ADMINISTRATION

32 EAST HANOVER STREET, TRENTON, N. J. 08625

JACK STANTON
DIRECTOR

LINO F. PEREIRA
ADMINISTRATOR
SOLID WASTE MANAGEMENT

April 1, 1981

Mr. Carl W. Ling
Scientific Chemical Processing, Inc.
411 Wilson Avenue
Newark, New Jersey 07105

Dear Mr. Ling:

The Bureau has reviewed your Company's proposal for clean-up of the Newark and Carlstadt sites. On February 20, 1981, you met with my staff to review the plan. At that meeting, many of the Bureau's questions concerning details of the proposal were discussed. This letter will summarize the major discussion items of that meeting. It will serve as a guide to you in your preparation of what we hope will be a comprehensive plan submission. With adequate detail and attention to our concerns, we hope we can quickly come to terms which both parties find workable to effect a safe and efficient clean-up of the sites.

The meeting format discussed each section or stage as presented in the December 16, 1980 letter from you to Dr. Ralph Pasceri. Following are the comments concerning each section of the proposal. Be advised that further questions or requirements may be raised by this Department during the course of proposal clarification and clean-up. Your general plan calls for two basic disposal alternatives: removal of wastes to approved facilities and the discharge of certain wastes to the Carlstadt Sewerage Authority. Prior to any authorizations for removal off-site, you must identify the proposed hauler, the proposed disposal facility, and certification that the receiving facility is authorized by the appropriate State agency and capable of receiving the specific waste types. Prior to the proposed discharges to the Carlstadt Sewerage Authority, this Bureau requires a copy of your current discharge authorization. In addition, the Carlstadt Sewerage Authority should be notified in writing of the proposed discharges. SCP should also propose a method to assure the DEP and the Carlstadt Sewerage Authority that all discharges occurring during the clean-up do not exceed the established discharge parameters.

The Department would also like for you to specify, with the best degree of accuracy, which facilities will be handling which waste types. Additionally, we would like estimates of the quantities of each waste type needing disposal or treatment. Stage I of the December 16, 1980 letter

proposed transfer of wastes from tank wagons and returning the vehicles to their owners. Prior to approval of this stage, you must detail who will make the transfer and the safety precautions to be taken to ensure personnel safety and prevention of damage to the environment in case of an accident or spill.

During our meeting we discussed discrepancies in the three inventories supplied by you over the past year. Enclosed is a summary of those inventories outlining the discrepancies. Please address each tank and explain the differences in quantities, waste descriptions, or both. Supply copies of any documentation to explain increases or decreases in quantities and laboratory analysis if needed. Any transfer of materials outlined in Stage I is not authorized until the inventory discrepancies are resolved. The Department recognizes that the 3,000 gallons of crude waste from Harmon Color previously stored in Tank VTS-131 has been removed.

Stage II has already been approved. The Bureau requested the name of the ultimate disposal facility, the name of the registered collector/hauler who will transport the waste, and 24-hour prior notification of any shipment. As of this date, we have not received a response to our requests or notification of any shipments.

Stages III, IV, and V have been presented in general terms. Prior to approval of these proposals, more detail is necessary. Of course these stages need the supervision of an outside manager. At the meeting, you explained that you were having some difficulty in obtaining someone who is connected with our TOA facilities. The Bureau will consider a person not connected with one of our permitted facilities if he or she is qualified and experienced. This appointment is still subject to the Bureau's approval. There are still many areas of concern about these stages. Many of those concerns were discussed during the February 20, 1981 meeting. In addition, questions asked in the Bureau's letter to you on January 30, 1981 concerning your initial clean-up proposal still remain unanswered.

At this point, the clean-up proposal stands conceptually sound. One portion or stage of the plan has already been approved conditionally, and we appear near approval on several aspects of other stages. In order to move along with the approval, and thus the clean-up, the Bureau now needs greater detail concerning how these proposals will be carried out and assurances that the work will be done in a safe manner to the public, the workers, and the environment. In order to accomplish this working, detail is needed.

The Bureau is prepared to discuss the above in detail and receive for review further written classification.

Very truly yours,

Ralph Pasceri

Ralph Pasceri, Chief
Bureau of Hazardous Waste

cc: Francis V. Crahay, Esq.
Dennis Krumholz, D.A.G.

SCP - CARLSTADT

EQUIPMENT NUMBER	DATE OF INVENTORY	CAPACITY GALLONS	ACTUAL GALLONS	MATERIAL
T-1	6/11/80	15,000	10,000	#2 fuel oil
	6/25/80	15,000	10,000	fuel
	12/16/80	15,000	3,000	# fuel oil
T-2	6/11/80	10,000	5,000	#2 fuel oil
	6/25/80	10,000	5,000	#2 fuel oil
	12/16/80	10,000	2,000	#2 fuel oil
T-11	6/11/80	8,000	8,000	#2 fuel oil
	6/25/80	8,000	5,000	fuel
	12/16/80	8,000	0	0
T-12	6/11/80	3,000	MT	MT
	6/25/80	3,000	2,500	Recovered methanol
	12/16/80	3,000	0	0
T-25	6/11/80	6,000	5,000	Paint sludge
	6/25/80	6,000	6,000	Crude fuel/H ₂ O
	12/16/80	6,000	6,000	T-2000 water; B-4000 fuel residue
T-26	6/11/80	5,000	5,000	Crude (thinner reliance)
	6/25/80	5,000	5,000	Crude thinner
	12/16/80	5,000	5,000	Crude (thinner)
T-27	6/11/80	6,000	5,000	Paint sludge
	6/25/80	6,000	6,000	Crude fuel/H ₂ O
	12/16/80	6,000	6,000	T-500 water; B-5500 fuel residue
T-28	6/11/80	3,000	2,500	Thin film bottoms
	6/25/80	3,000	2,500	Fuel
	12/16/80	3,000	500	Crude fuel water
T-29	6/11/80	5,000	MT	MT
	6/25/80	5,000	5,000	Methanol/H ₂ O
	12/16/80	5,000	5,000	Methanol/water
T-30	6/11/80	5,000	MT	MT
	6/25/80	5,000	5,000	Methanol/H ₂ O
	12/16/80	5,000	5,000	Methanol/water
T-31	6/11/80	10,000	10,000	crude, solvents, paint & fuel residue, water
	6/25/80	10,000	10,000	H ₂ O/solvent for distillation
	12/16/80	10,000	10,000	T-8000 water; B-2000 fuel residue

EQUIPMENT NUMBER	DATE OF INVENTORY	CAPACITY GALLONS	ACTUAL GALLONS	MATERIAL
T-32	6/11/80	10,000	10,000	Crude, solvent, paint, fuel residue, H ₂ O
	6/25/80	10,000	9,500	Crude fuel/H ₂ O
	12/16/80	10,000	9,500	T-500 water; B-9000 fuel residue
T-33	6/11/80	10,000	10,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	10,000	10,000	Crude fuel/H ₂ O
	12/16/80	10,000	10,000	T-2000 fuel; M-2000 water B-6000 fuel residue
T-34	6/11/80	10,000	10,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	10,000	10,000	Crude fuel
	12/16/80	10,000	10,000	T-fuel; B-8000 fuel residue
T-35	6/11/80	10,000	10,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	10,000	10,000	Crude fuel/H ₂ O
	12/16/80	10,000	10,000	T-5000 fuel; M-1000 H ₂ O; B-fuel residue
T-36	6/11/80	10,000	10,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	10,000	10,000	Crude fuel, water
	12/16/80	10,000	10,000	T-5000 fuel; M-1000 water; B-4000 fuel residue
T-37	6/11/80	10,000	10,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	10,000	10,000	Crude fuel, water
	12/16/80	10,000	10,000	T-5000 water; B-5000 fuel residue
T-101	6/11/80	14,000	14,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	14,000	14,000	Crude fuel, water
	12/16/80	14,000	14,000	T-5000 water; B-9000 fuel residue
T-102	6/11/80	14,000	14,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	14,000	14,000	Crude fuel, water
	12/16/80	14,000	14,000	T-500 oil; M-3000 water; B-10,000 fuel residue

EQUIPMENT NUMBER	DATE OF INVENTORY	CAPACITY GALLONS	ACTUAL GALLONS	MATERIAL
T-103	6/11/80	15,000	15,000	Sodium sulfate solution
	6/25/80	15,000	15,000	Sodium sulfate solution
	12/16/80	15,000	15,000	Sodium sulfate solution
T-104	6/11/80	5,000	5,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	5,000	4,000	Crude fuel, water
	12/16/80	5,000	4,000	T-2000 water; B-2000 fuel residue
T-105	6/11/80	5,000	MT	MT
	6/25/80	5,000	1,500	Paint pigment residue
	12/16/80	5,000	1,500	fuel residue
T-106	6/11/80	5,000	5,000	Fuel blend
	6/25/80	5,000	4,500	Fuel blend
	12/16/80	5,000	2,000	Fuel residue
T-107	6/11/80	5,000	2,000	Thin film bottoms
	6/25/80	5,000	4,500	Fuel blend
	12/16/80	5,000	1,000	Fuel residue
T-108	6/11/80	6,000	5,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	6,000	5,000	Crude fuel
	12/16/80	6,000	2,500	Fuel residue
T-109	6/11/80	6,000	6,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	6,000	6,000	Fuel blend
	12/16/80	6,000	6,000	Fuel residue
T-110	6/11/80	4,800	4,500	Crude, solvent, paints & fuel residue, H ₂ O
	6/25/80	4,800	4,000	Crude fuel
	12/16/80	4,800	4,000	Fuel residue
T-111	6/11/80	8,000	8,000	Latex emulsions
	6/25/80	8,000	7,600	Water latex mixture
	12/16/80	8,000	7,600	T-600 water/trace oil - B-7000 1
T-112	6/11/80	8,000	8,000	Fuel blend
	6/25/80	8,000	8,000	Fuel blend
	12/16/80	8,000	2,000	Fuel residue
T-113	6/11/80	8,000	8,000	Fuel blend
	6/25/80	8,000	8,000	Fuel blend
	12/16/80	8,000	1,000	Fuel residue

EQUIPMENT NUMBER	DATE OF INVENTORY	CAPACITY GALLONS	ACTUAL GALLONS	MATERIAL
T-114	6/11/80	7,000	7,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	7,000	7,000	Crude fuel/water
	12/16/80	7,000	7,000	T-4000 water/trace oil - B-3000 fuel residue
T-115	6/11/80	7,000	7,000	Thin film bottoms
	6/25/80	7,000	6,000	Crude fuel
	12/16/80	7,000	6,000	T-3000 fuel blend - B-3000 fuel residue
T-116	6/11/80	20,000	20,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	20,000	20,000	Crude fuel
	12/16/80	20,000	20,000	Fuel residue
T-117	6/11/80	20,000	20,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	20,000	20,000	Crude fuel/water
	12/16/80	20,000	20,000	T-3000 fuel; M-4000 H ₂ O; B-13000 fuel residue
T-118	6/11/80	20,000	20,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	20,000	19,000	Crude fuel, H ₂ O, paint & pigment residue
	12/16/80	20,000	19,000	T-6000 water; B-13000 fuel residue
T-119	6/11/80	13,000	13,000	Fuel blend
	6/25/80	13,000	13,000	Fuel blend
	12/16/80	13,000	3,000	Fuel blend
T-200	6/11/80	5,000	MT	MT
	6/25/80	5,000	1,500	Paint & pigment residue
	12/16/80	5,000	1,500	Fuel residue
T-201	6/11/80	10,000	10,000	Crude, solvent, paint & fuel residue, H ₂ O
	6/25/80	10,000	8,000	Waste water, paint sludge
	12/16/80	10,000	8,000	T-5000 water; B-3000 fuel residue
T-202	6/11/80	5,000	MT	MT
	6/29/80	5,000	1,500	Paint & pigment residue
	12/16/80	5,000	1,500	Fuel residue
VTS-1	6/11/80	4,000	1,500	Recovered phosphoric acid
	6/25/80	4,000	3,500	Recovered phosphoric acid
	12/16/80	4,000	0	0

EQUIPMENT NUMBER	DATE OF INVENTORY	CAPACITY GALLONS	ACTUAL GALLONS	MATERIAL
VTS-131	6/11/80	5,700	MT	MT
	6/25/80	5,700	3,000	Crude methanol/phosphoric acid
	12/16/80	5,700	3,000	Crude methanol/phosphoric acid
VTS-33	6/11/80	4,500	1,500	Recovered phosphoric acid
	12/16/80	4,500	0	0
VTS-5	6/11/80	3,500	2,000	Thin film bottoms
	6/25/80	3,500	3,500	Crude fuel
	12/16/80	3,500	3,500	Crude fuel water
VTS-402	6/11/80	3,000	1,500	Recovered methanol
	6/25/80	3,000	3,000	Methanol/water
	12/16/80	3,000	3,000	Methanol/water
VTI-8	6/11/80	2,500	MT	MT
	6/25/80	2,500	1,500	Fuel blend
	12/16/80	2,500	0	0
VT-14	6/11/80	6,000	2,000	Thin film bottoms
	6/25/80	6,000	5,000	Crude fuel
	12/16/80	6,000	4,000	Thin film bottoms
VT-7	6/11/80	4,000	MT	MT
	6/25/80	4,000	3,000	Water from treater tanks
	12/16/80	4,000	3,000	Water from treater tanks
VT-183	6/11/80	6,200	5,000	Fuel blend
	6/25/80	6,200	6,000	Fuel blend
	12/16/80	6,200	4,000	Fuel residue
VT-23	6/11/80	6,200	5,000	Fuel blend
	6/25/80	6,200	6,000	Fuel blend
	12/16/80	6,200	1,500	Thin film bottoms
VTS-11	6/11/80	6,000	3,500	Recovered solvents
	6/25/80	6,000	3,500	Recovered thinner
VTS-365	6/11/80	6,200	6,200	Recovered solvent
VTS-4	6/11/80	1,600	MT	MT
	12/16/80	1,600	0	0

EQUIPMENT NUMBER	DATE OF INVENTORY	CAPACITY GALLON	ACTUAL GALLONS	MATERIAL
VTS-219	6/11/80	3,000		Recovered methanol
	6/25/80	3,000	2,500	Methanol/water
	12/16/80	3,000	2,500	Methanol/water
Thin film rec.	6/25/80	3,000	3,000	Recovered thinner
VT-21	6/25/80	6,200	6,000	Fuel blend
	12/16/80	6,200	1,500	Thin film bottoms
VTS-65	6/25/80	5,400	5,000	Methanol/water
	12/16/80	5,400	5,000	Methanol/water
VT-100	6/25/80	4,500	4,500	Fuel blend
	12/16/80	4,500	4,000	Fuel blend
VT-56	6/25/80	6,600	500	Diesel Oil (fuel for tractors)
41 drums	6/25/80			Recovered thinner
Roll off	6/25/80	15 yds.		Paint pigment sludge
VTS-2	12/16/80	4,000	500	Fuel residue
Sludge Box	12/16/80	2,500		Sludge

STATE OF NEW JERSEY)
 : ss
COUNTY OF MERCER)

AFFIDAVIT OF
ALPHONSF IANNUZZI, JR.

ALPHONSE IANNUZZI, JR., being duly sworn according to law,
upon his oath deposes and says:

1. I am employed by the Department of Environmental Protection in the Division of Waste Management. I am presently assigned to the Northern Field Office of the Bureau of Field Operations with responsibility for inspecting solid and hazardous waste facilities to determine whether they are complying with State and Federal environmental laws.

2. I hold a Bachelor of Arts Degree in Environmental Science from Stockton State College. In addition, I expect to receive my Masters Degree in Environmental Science from New Jersey Institute of Technology in May 1983.

3. In connection with my duties as a DEP inspector, I have inspected the Scientific Chemical Processing (SCP) facilities located at 216 Paterson Plank Road, Carlstadt, New Jersey (Carlstadt site) and 411 Wilson Avenue, Newark, New Jersey (Newark site).

4. Between January 1981 and January 1983, I inspected the Carlstadt site approximately 15 times. My most recent inspection was conducted on January 12, 1983. A copy of my inspection report is attached hereto as Exhibit "A". During this inspection I observed leaking tanks, drums and tank trailers. In particular, I noted leaks near tanks No. 105, 114 and 118 and around the drum storage area adjacent to tank 105.

EXHIBIT "J"

5. During my inspections of the Carlstadt site on March 3, 1982, June 16, 1982 and October 15, 1982 I observed leaks at the same locations as set forth in paragraph 4 above.

6. During my inspection of the Newark site on April 13, 1982 I noted that drums were deteriorating and falling to the ground.

7. In my opinion, the Carlstadt site poses a substantial danger because of the high potential for fire or explosion. The waste in storage tank 105, which has a capacity of approximately 5,000 gallons, is presently corroding directly through the walls and onto the ground. Further, the drums stored near tank 105 are severely rusted. In the event that the waste from these vessels ignited, a chemical fire emanating toxic hazardous fumes would result. Such a fire would endanger those who work and live in the area near this site.

8. Finally, in my opinion the leaks and spills of hazardous substances at the Carlstadt site are causing pollution of the surface and groundwater of the area.

Alphonse Iannuzzi, Jr.

Sworn and subscribed to before me
this 8 day of March, 1983.

Alphonse Iannuzzi, Jr.
Alphonse Iannuzzi, Jr.

A F F I D A V I T

STATE OF NEW JERSEY)

.SS:

COUNTY OF ESSEX

I, JERRY MAZZARELLA, of full age, being duly sworn,
upon oath according to law, depose and say:

1. I am the Chief Assistant Assessor of the City of Newark.
2. The Tax Assessor's Office maintains an abstract of the recorded deeds in the County of Essex.
3. I have searched the said records for the owners of the property located at 411 Wilson Avenue in the City of Newark, New Jersey, more particularly described as Block 5020, Lot 98, Newark, New Jersey.
4. The names of the record owner of said property is LEIF R. SIGMUND & DOMINICK PRESTO, Partners, located at 411 Wilson Avenue, Newark, New Jersey.
5. The above statements are true to the best of my knowledge and belief.

JERRY MAZZARELLA

SWORN AND SUBSCRIBED TO
BEFORE ME THIS 7th DAY
OF April, 1983.

Attorney at Law of New Jersey

Lease Agreement, made the 1st day of January

2: 75

Between

LEIF R. SIGMOND and DOMINICK PRESTO, partners
 t/a SIGMOND & PRESTO

residing or located at 18 Glen Road of Rutherford in the County of
 in the Bergen Borough and State of New Jersey, herein designated as the Landlord,
 and
 ENERCALL, INC., a New Jersey Corporation

residing or located at 411 Wilson Avenue in the County of
 in the City of Newark, herein designated as the Tenant;
 Essex and State of New Jersey
 Witnesseth that, the Landlord does hereby lease to the Tenant and the Tenant does hereby rent from
 the Landlord, the following described premises: a portion of premises known as 411 Wilson
 Avenue, Newark, N.J., all as described and designated on the attached sketch which
 is made a part hereof.

for a term of Ten (10) years
 commencing on January 1, 1976, and ending on December 31, 1986
 to be used and occupied only and for no other purpose than chemical plant, including fuel
 blending.

Upon the following Conditions and Covenants:

1st: The Tenant covenants and agrees to pay to the Landlord, as rent for and during the term hereof, the sum of
 \$12,000.00 TWELVE THOUSAND and no/100 DOLLARS in the following manner:

\$100.00 per month payable in advance commencing with January 1, 1976, and on the
 first day of each and every month thereafter. The rent shall be increased, pro rata,
 for any increase in taxes over the base year 1978.

2nd: The Tenant has examined the premises and has entered into this lease without any representation on the part
 of the Landlord as to the condition thereof. The Tenant shall take good care of the premises and shall at the Tenant's own cost
 and expense, make all repairs, including painting and decorating, and shall maintain the premises in good condition and state
 of repair, and at the end or other expiration of the term hereof, shall deliver up the rented premises in good order and condi-
 tion, wear and tear from a reasonable use thereof, and damages by the elements not resulting from the neglect or fault of the
 Tenant, except the Tenant shall not be liable for damage to the premises caused by fire, theft, burglary, vandalism and
 stairs, but shall keep and maintain the same in a clean condition, free from debris, trash, refuse, snow and ice.

3rd: The Tenant shall promptly comply with all laws, ordinances, rules, regulations, requirements and directives
 of the Federal, State and Municipal Governments or Public Authorities and of all their departments, bureaus and subdivisions,
 applicable to and affecting the said premises, their use and occupancy, for the correction, prevention and abatement of nuis-
 ances, violations or other grievances in, upon or connected with the said premises, during the term hereof; and shall promptly
 comply with all orders, regulations, requirements and directives of the Board of Fire Underwriters or similar authority and
 of any insurance companies which have issued or are about to issue policies of insurance covering the said premises and its
 contents, for the prevention of fire or other casualty, damage or injury, at the Tenant's own cost and expense.

4th: The Tenant shall not assign, mortgage or hypothecate this lease, nor sublet or sublease the premises or
 any part thereof; nor occupy or use the leased premises or any part thereof, nor permit or suffer the same to be occupied or
 used for any purposes other than as herein limited, nor for any purpose deemed unlawful, disreputable, or extra hazardous, on
 account of fire or other casualty.

5th: No alterations, additions or improvements shall be made, and no climate regulating, air conditioning, cooling,
 heating or sprinkler systems, television or radio antennas, heavy equipment, apparatus and fixtures, shall be installed in or
 attached to the leased premises, without the written consent of the Landlord. Unless otherwise provided herein, all such altera-
 tions, additions or improvements and systems, when made, installed in or attached to the said premises, shall belong to and
 become the property of the Landlord and shall be surrendered with the premises and as part thereof upon the expiration or
 sooner termination of this lease, without hindrance, molestation or injury.

6th: In case of fire or other casualty, the Tenant shall give immediate notice to the Landlord. If the premises shall
 be partially damaged by fire, the elements or other casualty, the Landlord shall repair the same as speedily as practicable, but
 the Tenant's obligation to pay the rent hereunder shall not cease. If, in the opinion of the Landlord, the premises be so exten-
 sively and substantially damaged as to render them untenable, then the rent shall cease until such time as the premises
 shall be made tenable by the Landlord. However, if, in the opinion of the Landlord, the premises be totally destroyed or so
 extensively and substantially damaged as to require practically a rebuilding thereof, then the rent shall be paid up to the time
 of such destruction and then and from thereafter this lease shall come to an end. In no event however, shall the provisions of
 this clause become effective or be applicable, if the fire or other casualty and damage shall be the result of the carelessness,
 negligence or improper conduct of the Tenant or the Tenant's agents, employees, guests, licensees, invitees, subtenants,
 assignees or successors. In such case, the Tenant's liability for the payment of the rent and the performance of all the cov-
 enants, conditions and terms hereof on the Tenant's part to be performed shall continue and the Tenant shall be liable to the
 Landlord for the damage and loss suffered by the Landlord. If the Tenant shall have been insured against any of the risks
 herein covered, then the proceeds of such insurance shall be paid over to the Landlord to the extent of the Landlord's costs
 and expenses to make the repairs hereunder, and such insurance carriers shall have no recourse against the Landlord for
 reimbursement.

7th: The Tenant agrees that the Landlord and the Landlord's agents, employees or other representatives, shall
 have the right to enter into and upon the said premises or any part thereof, at all reasonable hours, for the purpose of exam-
 ining the premises or making such repairs or alterations therein as may be necessary for the safety and preservation thereof. This
 clause shall not be deemed to be a covenant by the Landlord nor be construed to create an obligation on the part of the Land-
 lord to make such inspection or repairs.

8th: The Tenant agrees to permit the Landlord and the Landlord's agents, employees or other representatives
 show the premises to persons wishing to rent or purchase the same, and the Tenant agrees that on and after
 the expiration of the term hereof, the Landlord or the Landlord's agents, employees or other representatives

10th: The Tenant shall not place nor allow to be placed any signs of any kind whatsoever, upon, in or about the said premises or any part thereof, except of a design and structure and in or at such places as may be indicated and consented to by the Landlord in writing. In case the Landlord or the Landlord's agents, employees or representatives shall deem it necessary to remove any such signs in order to paint or make any repairs, alterations or improvements in or upon said premises or any part thereof, they may be so removed, but shall be replaced at the Landlord's expense when the said repairs, alterations or improvements shall have been completed. Any signs permitted by the Landlord shall at all times conform with all municipal ordinances or other laws and regulations applicable thereto.

12th: This lease shall not be a lien against the said premises in respect to any mortgages that may hereafter be placed upon said premises. The recording of such mortgage or mortgages shall have preference and precedence and be superior and prior in lien to this lease, irrespective of the date of recording and the Tenant agrees to execute any instruments, without and prior to lien to this lease, necessary or desirable, to further effect the subordination of this lease to any such mortgage or mortgages. A refusal by the Tenant to execute such instruments shall entitle the Landlord to the option of cancelling this lease, and the term hereof is hereby expressly limited accordingly.

14th: If for any reason it shall be impossible to obtain fire and other hazard insurance on the buildings and improvements on the leased premises, in an amount and in the form and in insurance companies acceptable to the Landlord, the Landlord may, if the Landlord so elects at any time thereafter, terminate this lease and the term hereof, upon giving to the Tenant fifteen days notice in writing of the Landlord's intention so to do, and upon the giving of such notice, this lease and the term thereof shall terminate. If by reason of the use to which the premises are put by the Tenant or character of or the manner in which the Tenant's business is carried on, the insurance rates for fire and other hazards shall be increased, the Tenant shall upon demand, pay to the Landlord, as rent, the amounts by which the premiums for such insurance are increased. Such payment shall be paid with the next installment of rent but in no case later than one month after such demand, whichever occurs sooner.

10th: If the land and premises leased herein, or of which the leased premises are a part, or any portion thereof, shall be taken under eminent domain or condemnation proceedings, or if suit or other action shall be instituted for the taking or condemnation thereof, or if in lieu of any formal condemnation proceedings or actions, the Landlord shall grant an option to purchase and or shall sell and convey the said premises or any portion thereof, to the governmental or other public authority, agency, body or public utility, seeking to take said land and premises or any portion thereof, then this lease, at authority, agency, body or public utility, shall terminate, and the term hereof shall end as of such date as the Landlord shall fix by notice the option of the Landlord, shall have no claim or right to claim or be entitled to any portion of any amount which may be in writing; and the Tenant shall have no claim or right to claim or be entitled to any portion of any amount which may be awarded as damages or paid as the result of such condemnation proceedings or paid as the purchase price for such option, or conveyed in lieu of formal condemnation proceedings; and all rights of the Tenant to damages, if any, are hereby assigned to the Landlord. The Tenant agrees to execute and deliver any instruments, at the expense of the Landlord, as may be deemed necessary or required to expedite any condemnation proceedings or to effectuate a proper transfer of title to such governmental or other public authority, agency, body or public utility seeking to take or acquire the said lands and premises or any portion thereof. The Tenant also agrees to vacate the said premises, remove all the Tenant's personal property therefrom and deliver up peaceable possession thereof to the Landlord or to such other party designated by the Landlord in the aforementioned notice. Failure by the Tenant to comply with any provisions in this clause shall subject the Tenant to such costs, expenses, damages and losses as the Landlord may incur by reason of the Tenant's breach hereof.

15th: Upon the occurrence of any of the contingencies set forth in the preceding clause, or should the Tenant be adjudicated a bankrupt, insolvent or placed in receivership, or should proceedings be instituted by or against the Tenant for bankruptcy, insolvency, receivership, agreement of composition or arrangement for the benefit of creditors, or if this lease or the estate of the Tenant hereunder shall pass to another by virtue of any court proceedings, writ of execution, levy, sale, or by operation of law, the Landlord may, if the Landlord so elects, at any time thereafter, terminate this lease and the term hereof, upon giving to the Tenant or to any trustee, receiver, assignee or other person in charge of or acting as custodian of the assets or property of the Tenant, five days notice in writing, of the Landlord's intention so to do. Upon the giving of such notice, this lease and the term hereof shall end on the date fixed in such notice as if the said date was the date originally fixed in this lease for the expiration hereof; and the Landlord shall have the right to remove all persons, goods, fixtures and chattels therefrom, by force or otherwise, without liability for damages.

Section 11: If the Tenant shall fail or refuse to comply with and perform any conditions and covenants of this within lease, the Landlord may, if the Landlord so elects, enter and take possession of the premises and all or any part thereof or at the option of the Landlord, shall be deemed to be a Tenant, and the sum, cost and expense of such entry and possession shall be paid by the Tenant within thirty days of the date of the Landlord's demand for such payment. If the Tenant fails to pay the sum, cost and expense of such entry and possession within thirty days of the date of the Landlord's demand, the Landlord shall be deemed to be a Tenant, and the sum, cost and expense of such entry and possession shall be paid by the Tenant within thirty days of the date of the Landlord's demand. This remedy shall be in addition to such other remedies as the Landlord may have at law or in equity for breach of the covenants and conditions in this lease contained.

[illegible]

27th: The Tenant has examined the premises and accepts them in their present condition and without any representations or guaranties, whether express, implied or otherwise, on the part of the Landlord as to the present or future condition of the premises.

28th: Tenant shall not be responsible for any repair to any of the structural parts of the building or the roof except when damage is caused by the acts of the Tenant.

29th: Any improvements, repairs or additions to the electrical, plumbing, heating systems or other systems shall be made by Tenant at his own costs and expense.

30th: The Tenant shall pay the Landlord as additional rent his proportionate share of the real estate taxes assessed and levied by the City of Newark against the land and buildings of which the demised premises are a part immediately upon demand by the Landlord.

31st: The Tenant shall pay for all gas, fuel for heat, water, proportionate share of sewer charges, electricity and all other utilities in addition to the other provisions contained.

32nd: Tenant shall pay as additional his proportionate share of the cost of the Electro Protective Service immediately upon demand by the Landlord.

33rd: Landlord shall have the same rights and remedie for the default by the Tenant in the payment required for any additional rent as the Landlord has against the Tenant for the nonpayment of regular rent.

34th: The Tenant shall indemnify, defend and save harmless the Landlord from all fines, suits, procedures, claims and actions of any kind arising out of or in any way connected with the Tenant's use or occupancy of the demised premises.

35th: Upon the reasonable request of either party at any time or from time to time, the Landlord and the Tenant agree to execute, acknowledge and deliver to the other, within 10 days after request, a written instrument duly executed and acknowledged, (a) certifying that this lease has not been modified and is in full force and effect, or, if there has been a modification of this lease, that this lease is in full force and effect as modified, stating such modification; (b) specifying the dates to which the annual fixed rent and additional rent have been paid; (c) stating whether or

35th continued: not, to the knowledge of the party executing such instrument, the other party is in default; and (d) stating the commencement date of this lease. Notwithstanding the foregoing, the 10-day period shall be extended with respect to a request from the Tenant to the Landlord in the event the Landlord's response to it shall be delayed by a mortgagee holding a mortgage on the demised premises.

36th: If at any time during the term of this lease a tax or charge be imposed by the State of New Jersey or the county or municipality in which the premises are located, pursuant to any future law, which tax or charge shall be based on the rent paid by the Tenant to the Landlord, the Tenant shall pay the Landlord as additional rent, upon demand of the Landlord, such tax or charge. The foregoing shall not require payment by the Tenant of any income taxes assessed against the Landlord or any capital levy, franchise, estate, succession, inheritance or transfer taxes due from the Landlord.

37th: The Tenant shall, at the Tenant's own cost and expense, maintain the sprinkler system in the demised premises. All water utility charges and fees with regard to the sprinkler system shall be paid by the Tenant. If the Board of Fire Underwriters or any federal, state or municipal government requires or recommends any changes, alterations or additional sprinkler heads or other equipment be made by reason of the Tenant's business or location or partitions, trade fixtures or other contents, or such changes, alterations or additional sprinkler heads or other equipment become a necessity to prevent imposition of a charge against the full allowance for a sprinkler system in the fire insurance rate as fixed by the Board of Fire Underwriters, the Tenant shall, at the Tenant's own cost, promptly make and supply such changes, modifications, additional sprinkler heads or other equipment. At the expiration of the term, the Tenant shall deliver the sprinkler system in good repair and condition, damages by the elements and ordinary wear and tear excepted.

38th: The Tenant shall pay and discharge as additional rent a proportionate share of all insurance premiums on the demised building, for the following insurance coverages, which insurance premiums shall be based on all insurance on the land and building of which the demised premises are a part:

(a) Loss of damage by fire; loss or damage by other risks contemplated within extended coverage endorsements (as such endorsements are customarily written in the State of New Jersey); such other risks as shall be carried by the Landlord (including but not limited to "all risks" coverage, flood insurance and glass breakage insurance); water damage (including sprinkler system) liability insurance; and vandalism and malicious mischief insurance. This insurance shall (a) name the Landlord as the insured and provide that any loss shall be payable to the Landlord; (b) provide that no act of the Tenant shall impair the rights of the Landlord to receive and collect the insurance proceeds; and (c) provide that the rights of the Landlord shall not be diminished because of any additional insurance carried by the Tenant for the Tenant's own account.

(b) General liability insurance covering claims for bodily injury, death, or property damage occurring in or about the demised premises; including any sidewalks adjoining the demised premises. This insurance shall be in the amount of not less than \$500,000 in the event of bodily injury or death to any one person; not less than \$1,000,000 in respect of any one accident; and not less than \$50,000 for property damage; and shall name the Landlord as the insured.

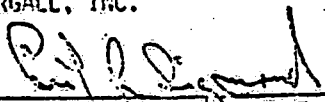
(c) The Tenant shall pay the Landlord the Tenant's proportionate share of the insurance premiums, upon the Landlord's demand. If the Tenant fails to pay, the Landlord shall have the same remedy as provided to the Landlord in this lease for the Tenant's default in the payment of rent.

(d) In addition to Tenant paying his proportionate share of the insurance set forth in subsection (a) hereof, he shall pay any increase in the overall premium caused by Tenant's use and occupancy as related to the entire structure or any portion thereof all as set forth in Paragraph 14th hereof.


39th: No receipt of money by the Landlord from any receiver, trustee or custodian or debtors in possession shall reinstate, continue or extend the term of this lease or affect any notice theretofore given to the Tenant or to any such receiver, trustee, custodian or debtor in possession or operate as a waiver or estoppel of the right of the Landlord to recover possession of the demised premises for any of the causes therein enumerated by any lawful remedy, and the failure of the Landlord to enforce any covenant or condition by reason of its breach by the Tenant after notice had, shall not be deemed to void or affect the right of the Landlord to enforce the same covenant or condition on the occasion of any subsequent default or breach.

40th: This lease and the obligation of Tenant to pay rent and perform all of the other terms, covenants and conditions on part of Tenant to be performed shall in nowise be affected, impaired or excused because Landlord is unable to supply or is delayed in supplying any service expressly or impliedly to be supplied or is unable to make, or is delayed in making any repairs, additions, alterations or decorations or is unable to supply or is delayed in supplying any equipment or fixtures if Landlord is prevented or delayed from so doing by reason of governmental preemption in connection with a National Emergency declared by the President of the United States or in connection with any rule, order or regulation of any department or subdivision thereof of any governmental agency or by reason of the conditions of supply and demand which have been or are affected by war or other emergency, or any other matter beyond the control of the Landlord, including but not limited to weather conditions.

ENERGALL, INC.


Leif R. Sigmond Tenant

SIGMOND & PRESTO

By 
Dominick Presto Landlord

land of any installment of rent after any breach by the Tenant, in any one or more instances, shall not be construed or deemed to be a waiver or a relinquishment for the future by the Landlord of any such conditions and covenants, options, elections or remedies, but the same shall continue in full force and effect.

2312b: All notices required under the terms of this lease shall be given and shall be complete by mailing such notices by certified or registered mail, return receipt requested, to the address of the parties as shown at the head of this lease, or to such other address as may be designated in writing, which notice of change of address shall be given in the same manner.

2312c: The Landlord covenants and represents that the Landlord is the owner of the premises herein leased and has the right and authority to enter into, execute and deliver this lease; and does further covenant that the Tenant on paying the rent and performing the conditions and covenants herein contained, shall and may peaceably and quietly have, hold and enjoy the leased premises for the term aforementioned.

2312d: This lease contains the entire contract between the parties. No representative, agent or employee of the Landlord has been authorized to make any representations or promises with reference to the within letting or to vary, alter or modify the terms hereof. No additions, changes or modifications, renewals or extensions hereof, shall be binding unless reduced to writing and signed by the Landlord and the Tenant.

See Rider Attached

The Landlord may pursue the relief or remedy sought in any invalid clause, by conforming the said clause with the provisions of the statutes or the regulations of any governmental agency in each case made and provided as if the particular provisions of the applicable statutes or regulations were set forth herein at length.

In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text of the within instrument may require. All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of and shall bind the respective parties hereto, and their heirs, executors, administrators, personal or legal representatives, successors and assigns.

In Witness Whereof, the parties hereto have hereunto set their hands and seals, or caused these presents to be signed by their proper corporate officers and their proper corporate seal to be hereto affixed, the day and year first above written.

Signed, Sealed and Delivered
in the presence of
or Attested by

SIGMOND & PRESTO

By

DOMINICK PRESTO
ENERGALL, INC.

Landlord

By

Leif A. Sigmond

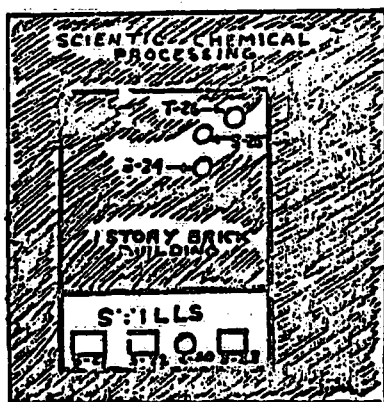
Tenant

1 STORY CONCRETE BUILDING

OVER HANG

NERGALL

T-34-00
T-33-00
T-32-00
T-31-00
T-30-00



PRESTO

T-8
T-5
T-6
T-7
T-4
T-3
T-2
T-1

1 STORY BRICK BUILDING

T-12
T-11
T-10
T-9
T-8
T-7
T-6
T-5
T-4
T-3
T-2
T-1

AREA OCCUPIED
By SCP, INC.

JILSON

AVE.

JOHN J. TEARE, CORPORATION COUNSEL
BY: ROBERT MacDONALD, ASSISTANT CORPORATION COUNSEL
Law Department, 920 Broad Street, Newark, New Jersey 07102
(201) 733-8716
Attorney for CITY OF NEWARK

MUNICIPAL COURT: CITY OF NEWARK
DOCKET NO. 96944

STATE OF NEW JERSEY, (CITY
OF NEWARK),

Plaintiff

Criminal Action

-vs-

A F F I D A V I T

DOMINICK PRESTO and SCIENTIFIC
CHEMICAL PROCESSING,

Defendants.

STATE OF NEW JERSEY)
.SS:
COUNTY OF ESSEX)

I, HUGH B. GALLAGHER, being of age and duly deposed
do say:

1. The undersigned is an Assistant Corporation Counsel
employed by the City of Newark who prosecuted the above referred
to case.

2. This matter involved allegations that Dominick
Presto and Scientific Chemical Processing, created and maintained
certain hazardous conditions at 411 Wilson Avenue in Newark,
New Jersey in violation of the B.O.C.A. Fire Prevention Code
on May 18, 1982.

3. This matter was tried on August 6, 1982.

4. Mr. Presto and Scientific Chemical Processing were found guilty of failing to maintain an operative sprinkler system and operative fire doors and of failing to submit a grid and list of materials stored at 411 Wilson Avenue to the Fire Department by the date complained of, May 18, 1982.

5. A sentence will be imposed in this matter on May 11, 1983. By that date the defendants should have the sprinkler system repaired. If the defendants have not made arrangements to repair the sprinkler system, the Court will be asked by the prosecutor to impose the maximum sentence allowed in regard to this matter.

6. The time for appeal will run in this matter from the date that a sentence is imposed.

7. At the trial of this matter, Dominick Presto admitted receiving notices of B.O.C.A. Code Violations.

8. Mr. Presto admitted being the owner of the property.

9. Scientific Chemical Processing admitted being a tenant in the building in question.

10. On the trial date, August 6, 1982, a grid and list of materials was supplied to the Fire Department.

11. This list was received into evidence by the Court.

12. Dominick Presto appeared pro-se and did not offer testimony.

13. Mr. Ling testified at the trial that he was an employee of Presto, Inc., and that he prepared the grid and listing of chemicals that are attached.

14. He stated further that the chemicals are non-flammable and in particular he stated that certain 55 gallon drums that were marked with the word "Xylene" contained non-flammable chlorides and did not contain Xylene.

15. On a date after the trial of this matter the Fire Department took chemical samples from 411 Wilson Avenue. In particular, the Fire Department took chemical samples from certain 55 gallon drums that were marked "Xylene". The sample from the drum marked "Xylene" was found to be flammable by the City's Police Chemist.

16. The Grid and Inventory supplied by Mr. Presto and Scientific Chemical are now considered to be not credible by the Fire Department of the City of Newark

17. The above facts are true.

HUGH B. GALLAGHER.
ASSISTANT CORPORATION COUNSEL

SWORN AND SUBSCRIBED TO
BEFORE ME THIS 21 DAY
OF March, 1983.

Attorney at Law State of New Jersey

STATE OF NEW JERSEY)
COUNTY OF MERCER) SS.

AFFIDAVIT OF
ROBERT K. TUCKER

ROBERT K. TUCKER, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am employed by the New Jersey Department of Environmental Protection (DEP), Office of Science and Research, as a Research Scientist, and as Deputy Director of the office. I have been employed at DEP since October 1977. Prior to joining the Department of Environmental Protection, I was a research biologist at the National Oceanic and Atmospheric Administration (NOAA) Sandy Hook Laboratory, Highlands, New Jersey, doing research on the effects of toxic metals on enzyme reactions in invertebrate animals.

2. I received a B.A. degree in biochemistry from the University of California, Berkeley, in June 1963. I received a Masters Degree in biology from Humboldt State University, Arcata, California in June 1967. I received my Ph.D. in zoology from Duke University, Durham, North Carolina in June 1971. My specialties in my doctoral research were in the areas of physiology, biochemistry, and enzymology of aquatic animals.

3. Since joining the Department of Environmental Protection, I have been in charge of a state-wide groundwater survey, involving the determination of levels of toxic and carcinogenic chemicals in groundwater aquifers throughout the state, and evaluation of the implications of these levels on public health and water supply. In addition, I have been responsible for coordinating a study of toxic chemicals in public drinking water supplies and the implications of our findings for public health. I have also been in charge of biological studies which assess physiological effects of toxic substances on biota in the environment. Finally, my office provides technical advice and consultation.

services to the rest of the Department of Environmental Protection concerning the probable health effects of toxic and carcinogenic chemicals found in the environment in the course of DEP investigations. As part of my responsibilities, I must keep current in the scientific literature regarding analytical requirements, environmental fate and health effects of toxic and carcinogenic chemicals.

4. I have reviewed recent reports by Department of Environmental Protection inspectors as well as past testimony from DEP files concerning the SCP, Inc. sites at 411 Wilson Ave., Newark and at 216 Paterson Plank Road, Carlstadt. In my opinion, conditions reported existing at these sites, formerly used for hazardous waste recovery operations, present a substantial threat to the environment and to public health. Numerous 55 gallon drums were observed to be leaking with no provision to prevent infiltration through the soil to underlying groundwater.

5. The close proximity to each other of acids, bases, organic peroxides, and other chemicals constitute an extreme fire and explosion hazard. For example, Dicumyl peroxide, identified on site, could cause fires or explosion if allowed to contact reducing agents, other organic matter, or if subject to heat or shock.

6. Many of the chemicals identified on site, or known to have been used there, present considerable danger to human health. Benzene, chloroform, and other chlorinated solvents are known cancer causing agents.

7. Leakage of chemical material from containers on these sites could contaminate ground water; the material could be washed into adjacent surface water bodies where buildup in the food chain could occur with potential human consumption. In addition, such leakage could lead to direct human exposure through volatile vapors or by contact and absorption.

8. Because of the health and environmental dangers noted above, it is my opinion that these sites must be responsibly cleaned up and the hazards removed in an expeditious manner.

Robert K. Tucker
Robert K. Tucker

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 4

DAY OF APRIL, 1983

David W. Ryan
attorney at law, State of New Jersey

appellants are not seeking to do business with the State, they are merely seeking to continue in business. The DEP's refusal to issue them a new TOA, in essence, closes them down for all purposes. This sanction is too great a price to pay for an indictment, which is not entitled to any evidential value, and is in no way mandated by the Trap Rock, supra, decision. Further, it is not clear that "moral responsibility" requirement that inheres in the public bidding situation is present where government issues a temporary operating authorization for the operation of a special waste facility. See N.J.S.A. 13:1E-11.

Turning to the facts in the instant case, the indictment was only one of several factors considered by the DEP in refusing to reissue appellants' TOA's. The other ingredients of the decision included the operational history of the facilities, the late and inadequate filing of required plans and reports, and the unacceptable handling, storage and containment of toxic and hazardous wastes. The agency's consideration of the indictment is unrelated to and severable from the remaining factors. Such other considerations independently support the determination that the appellants' TOA's should not be issued, at the present time, and that their handling of "special waste" and "solid waste disposal" should cease.

V. AS TO THE REMEDY

On May 1, 1979, the DEP advised appellants that their TOA's had expired as of April 30, 1979, and that the handling of "special waste" must thereafter cease (SCP-1). The result of this action was that the appellants were directed to close down, pending the DEP's decision concerning their application for registration, or the department's subsequent reconsideration of the request - for the reissuance of the TOA's. While even a temporary closure would have an adverse economic impact, if appellants had to stay closed for a minimum of ten (10) months while the DEP was reviewing their application for registration, serious business consequences might well result (3T64; 8T8).

Although appellants provide an important service to the State's industries by recycling and reclaiming waste products, it is clear that they should be temporarily closed so that they can devote fulltime attention to putting their house in order. It does not serve the interests of the State's economy or

businesses to permit the appellants to handle hazardous and toxic wastes including those with carcinogenic properties, in a manner that allows quantities thereof to be spilled or emitted into the air, waters or land. Appellants have shown a willingness to hire a consultant [9aT-74], and begin the process of cleanup on the eve of these proceedings, but such action comes too late to avoid the temporary cessation of their operations.

At this point, all of appellants energies must be devoted to cleanup and compliance with the State's anti-pollution laws and regulations. Until such time that the DEP is satisfied that appellants have adequately addressed all sources of actual and potential pollution on-site [e.g., from drums, process equipment, contaminated spills, and leaching into Peach Island Creek], the TOA's should not be reissued. In the event that the DEP, in its discretion, determines that substantial progress has been made towards the correction and prevention of these offending conditions, new temporary authorizations should be renewed or reissued. Any new TOA's may be subject to such conditions as the DEP deems appropriate, including the possible requirement of the posting a performance bond. See N.J.S.A. 13:1D-9; 13:1E-9.

VI. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon all of the competent and credible evidence, including exhibits received in this hearing, and after an opportunity to observe and consider the demeanor of the witnesses, and in exercise of his authority, the Administrative Law Judge, upon due consideration of all of the evidence and the law and the credibility and demeanor of the witnesses, hereby recommends the following findings of fact and conclusions of law:

1. That Scientific Chemical Processing, Inc., operates one "special waste facility" at 216 Paterson Plank Road, Carlstadt, and a second such facility at 411 Wilson Avenue, Newark.
2. That Energall, Inc. and Presto, Inc. operate "special waste facilities" at 411 Wilson Avenue, Newark.

3. That because of their interlocking ownership, management and operations, the terms and conditions of this Recommended Report and Decision are applicable to all three (3) corporations.

4. That appellants handle toxic and hazardous chemicals, including those having cancer-producing properties.

5. That Temporary Operating Authorizations (TOA's) were issued by the DEP to each of the four facilities on May 9, 1978, and expired by their own terms on April 30, 1979.

6. That such TOA's were conditioned on appellants' submission of "engineering designs" in accordance with Solid Waste Administration requirements, within four (4) months, that is, September 9, 1978.

7. That such TOA's were further conditioned on appellants' compliance with State environmental protection requirements.

8. That appellants failed to submit "engineering designs" acceptable to the DEP and the necessary supportive information by September 9, 1978, and that this deficiency persists to the present date.

9. That appellants have not complied with, and continually violated, State environmental protection requirements as evidenced by the testimony of Dr. Ronald Buchanan and George Smadja concerning on-site conditions. In particular, on numerous dates appellants have allowed toxic and hazardous chemicals to leak, spill and be discharged into the air, water and land. These toxic and hazardous included chemicals with carcinogenic, that is, cancer causing properties, for which there is no threshold exposure, in violation of environmental statutes including N.J.S.A. 23:5-28; 58:10-23.11 et seq.

10. That appellants' claim that they have been the subject of discriminatory and unequal treatment at the hands of the State's environmental protection agency is without foundation.

11. That appellants perform a valuable and important service to the State's industries, and in furtherance of the objective of energy conservation,

Robert C. Flett
74 Palisades Avenue
Jersey City, NJ 07306
Telephone: (201) 659-7044

Born January 9, 1933

Attended Jersey City school system; after military service graduated Central Evening High School in Newark, NJ.

Married, with eight children and two grandchildren.

Job History:

10/80 - 6/81 - Syncon Resins, Inc., Jacobous Avenue, South
Kearny, NJ

Second shift supervisor, concerned with the manufacture of synthetic resins. Job duties included quality control for the manufacture of latex resins, as well as responsibility for supervision of the loading and unloading of raw materials and finished products. Laboratory duties consisted of titration and viscosities; chemicals dealt with were dibutylmaleate, vinyl acetate monomer and others. Left when company went bankrupt.

1/78 - 6/80 - Presto, Inc., 411 Wilson Avenue, Newark, NJ

Worked in the recovery of chlorinated solvents, namely trichloroethylene, methylene chloride, 1-1-1 trichloroethane, perchlorethylene and DuPont Cyrel Colvent (a mixture of perchlorethylene and butanol). Duties were analysis of incoming products as to suitability by standard test methods such as distillation range, specific gravity, flammability and gas chromatography. Ran distillation on day shift and supervised individuals on the second and third shifts. Left their employ when Presto appeared to be going out of business.

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by recycling and reclaiming waste products.

12. That appellants, over the course of the past year, have attempted to comply in good faith with the filing requirements of the manifest system, and did, in fact, file more than 1,400 manifests with the DEP.

13. That the interests of the public health and safety, including the protection of the environment, must take precedence in the instant case where appellants have permitted spills, leaks and discharges of toxic and hazardous chemicals, including those with carcinogenic properties, into the air, water and land of the State.

14. That the TOA's for each of the four (4) facilities should not be renewed or reissued, at this time, and that handling of "special waste" and "solid waste disposal" should immediately cease.

15. That the cessation of appellants' operation need not be permanent. In the event that appellants satisfy the DEP that they have undertaken a program to correct and prevent all sources of pollution, as more specifically outlined in Section V., As To The Remedy, hereof, the TOA's may be renewed or reissued.

This action cannot be effected prior to the effective date of this Recommended Report and Decision, forty-five (45) days from the date of agency receipt of this Recommended Report and Decision, unless the agency head acts to affirm, modify, or reverse during the forty-five (45) day period, N.J.S.A. 52:14B-10.

I HEREBY FILE with the Commissioner of the Department of Environmental Protection, my Recommended Report and Decision in this matter and the record in these proceedings.

DATE

DATE

LEWIS P. GOLDSHORE, ALJ c/b

Receipt Acknowledged:

AGENCY HEAD

Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

c. The Indictment

Scientific Chemical Processing, Inc., Herbert G. Case, Leif Sigmond and Mack Barnes were indicted for violation of anti-pollution statutes in connection with the operations at the 411 Wilson Avenue, Newark, facility (State Grand Jury Number S.G.J. 51-78-2). The indictment was received and marked in evidence (DEP-8).

Herbert G. Case, Leif Sigmond and Mack Barnes hold significant management and decision-making positions in the appellants' operations (8T15; 8T23; 8T58; 8T66). Apparently, one of the factors considered by the DEP, Solid Waste Administration, in deciding not to issue a new TOA to the appellants' facilities was the outstanding indictment. Dr. Buchanan, Chief of the Bureau of Hazardous and Chemical Wastes, testified that in addition to the operational and environmental problems, the agency considered the indictment as a factor in its determination (2T82). While Mr. Smadja, a DEP inspector, may have been aware of the indictment, his recommendation that the operations be closed appears to have been independently based on the conditions on-site and the failure to prepare and file necessary documents (5T26; 5T27).

The DEP argues that the indictment goes to the "responsibility and reliability" of the appellants to comply with environmental standards (2T84; 2T78; 4T25; DEPb*28). It is their position that this requirement is implicit in the Solid Waste Management Act [see particularly N.J.S.A. 13:1E-5], and that prior to registration the DEP is obligated to consider this factor.

In support of this position, DEP relies on Trap Rock Industries v. Kohl, 59 N.J. 471 (1971), cert. den. 405 U.S. 1065, 92 S. Ct. 1500, 31 L. Ed 2d 796 (1972). In that case the State Commissioner of Transportation suspended a corporate contractor from bidding on State contracts because of the indictment of its president and chairman of the board of director. In upholding the Commissioner's right to suspend the contractor, pending the outcome of the criminal charges, the Court observed that the contractor's right to engage in business was not involved. While the State might refuse to do business with the contractor because of the indictment, other persons were not precluded from dealing with him. Trap Rock, supra, 59 N.J. at 476. In the instant case,

appellants are not seeking to do business with the State, they are merely seeking to continue in business. The DEP's refusal to issue them a new TOA, in essence, closes them down for all purposes. This sanction is too great a price to pay for an indictment, which is not entitled to any evidential value, and is in no way mandated by the Trap Rock, supra, decision. Further, it is not clear that "moral responsibility" requirement that inheres in the public bidding situation is present where government issues a temporary operating authorization for the operation of a special waste facility. See N.J.S.A. 13:1E-11.

Turning to the facts in the instant case, the indictment was only one of several factors considered by the DEP in refusing to reissue appellants' TOA's. The other ingredients of the decision included the operational history of the facilities, the late and inadequate filing of required plans and reports, and the unacceptable handling, storage and containment of toxic and hazardous wastes. The agency's consideration of the indictment is unrelated to and severable from the remaining factors. Such other considerations independently support the determination that the appellants' TOA's should not be issued, at the present time, and that their handling of "special waste" and "solid waste disposal" should cease.

V. AS TO THE REMEDY

On May 1, 1979, the DEP advised appellants that their TOA's had expired as of April 30, 1979, and that the handling of "special waste" must thereafter cease (SCP-1). The result of this action was that the appellants were directed to close down, pending the DEP's decision concerning their application for registration, or the department's subsequent reconsideration of the request for the reissuance of the TOA's. While even a temporary closure would have an adverse economic impact, if appellants had to stay closed for a minimum of ten (10) months while the DEP was reviewing their application for registration, serious business consequences might well result (3T64; 8T8).

Although appellants provide an important service to the State's industries by recycling and reclaiming waste products, it is clear that they should be temporarily closed so that they can devote fulltime attention to putting their house in order. It does not serve the interests of the State's economy or

businesses to permit the appellants to handle hazardous and toxic wastes including those with carcinogenic properties, in a manner that allows quantities thereof to be spilled or emitted into the air, waters or land. Appellants have shown a willingness to hire a consultant [9aT-74], and begin the process of cleanup on the eve of these proceedings, but such action comes too late to avoid the temporary cessation of their operations.

At this point, all of appellants energies must be devoted to cleanup and compliance with the State's anti-pollution laws and regulations. Until such time that the DEP is satisfied that appellants have adequately addressed all sources of actual and potential pollution on-site [e.g., from drums, process equipment, contaminated soils, and leaching into Peach Island Creek], the TOA's should not be reissued. In the event that the DEP, in its discretion, determines that substantial progress has been made towards the correction and prevention of these offending conditions, new temporary authorizations should be renewed or reissued. Any new TOA's may be subject to such conditions as the DEP deems appropriate, including the possible requirement of the posting a performance bond. See N.J.S.A. 13:1D-9; 13:1E-9.

VI. RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Upon all of the competent and credible evidence, including exhibits received in this hearing, and after an opportunity to observe and consider the demeanor of the witnesses, and in exercise of his authority, the Administrative Law Judge, upon due consideration of all of the evidence and the law and the credibility and demeanor of the witnesses, hereby recommends the following findings of fact and conclusions of law:

1. That Scientific Chemical Processing, Inc., operates one "special waste facility" at 216 Paterson Plank Road, Carlstadt, and a second such facility at 411 Wilson Avenue, Newark.

2. That Energall, Inc. and Presto, Inc. operate "special waste facilities" at 411 Wilson Avenue, Newark.

3. That because of their interlocking ownership, management and operations, the terms and conditions of this Recommended Report and Decision are applicable to all three (3) corporations.

4. That appellants handle toxic and hazardous chemicals, including those having cancer-producing properties.

5. That Temporary Operating Authorizations (TOA's) were issued by the DEP to each of the four facilities on May 9, 1978, and expired by their own terms on April 30, 1979.

6. That such TOA's were conditioned on appellants' submission of "engineering designs" in accordance with Solid Waste Administration requirements, within four (4) months, that is, September 9, 1978.

7. That such TOA's were further conditioned on appellants' compliance with State environmental protection requirements.

8. That appellants failed to submit "engineering designs" acceptable to the DEP and the necessary supportive information by September 9, 1978, and that this deficiency persists to the present date.

9. That appellants have not complied with, and continually violated, State environmental protection requirements as evidenced by the testimony of Dr. Ronald Buchanan and George Smadja concerning on-site conditions. In particular, on numerous dates appellants have allowed toxic and hazardous chemicals to leak, spill and be discharged into the air, water and land. These toxic and hazardous included chemicals with carcinogenic, that is, cancer causing properties, for which there is no threshold exposure, in violation of environmental statutes including N.J.S.A. 23:5-28; 58:10-23.11 et seq.

10. That appellants' claim that they have been the subject of discriminatory and unequal treatment at the hands of the State's environmental protection agency is without foundation.

11. That appellants perform a valuable and important service to the State's industries, and in furtherance of the objective of energy conservation,

by recycling and reclaiming waste products.

12. That appellants, over the course of the past year, have attempted to comply in good faith with the filing requirements of the manifest system, and did, in fact, file more than 1,400 manifests with the DEP.

13. That the interests of the public health and safety, including the protection of the environment, must take precedence in the instant case where appellants have permitted spills, leaks and discharges of toxic and hazardous chemicals, including those with carcinogenic properties, into the air, water and land of the State.

14. That the TOA's for each of the four (4) facilities should not be renewed or reissued, at this time, and that handling of "special waste" and "solid waste disposal" should immediately cease.

15. That the cessation of appellants' operation need not be permanent. In the event that appellants satisfy the DEP that they have undertaken a program to correct and prevent all sources of pollution, as more specifically outlined in Section V., As To The Remedy, hereof, the TOA's may be renewed or reissued.

This action cannot be effected prior to the effective date of this Recommended Report and Decision, forty-five (45) days from the date of agency receipt of this Recommended Report and Decision, unless the agency head acts to affirm, modify, or reverse during the forty-five (45) day period, N.J.S.A. 52:14B-10.

I HEREBY FILE with the Commissioner of the Department of Environmental Protection, my Recommended Report and Decision in this matter and the record in these proceedings.

DATE

DATE

LEWIS P. GOLDSHORE, ALJ c/b

Receipt Acknowledged:

AGENCY HEAD

Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

Robert C. Flett
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Jersey City, NJ 07306
Telephone: (201) 659-7043

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Married, with eight children and two grandchildren.

Job History:

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1/78 - 6/80 - Presto, Inc., 411 Wilson Avenue, Newark, NJ

Worked in the recovery of chlorinated solvents, namely trichloroethylene, methylene chloride, 1-1-1 trichloroethane, perchlorethylene and DuPont Cyrel Colvent (a mixture of perchlorethylene and butanol). Duties were analysis of incoming products as to suitability by standard test methods such as distillation range, specific gravity, flammability and gas chromatography. Ran distillation on day shift and supervised individuals on the second and third shifts. Left their employ when Presto appeared to be going out of business.

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1976 - 1977 - Inland Chemical Co., Doremus Avenue, Newark, NJ

Performed duties of a chemical operator concerned with the recovery of dimethylaniline. The operation consisted of acidifying, neutralizing with caustic soda, and then extraction of methylene chloride in an aqueous phase. Left due to general lay-off.

1975 - 1977 - Chemical Land, Lister Avenue, Newark, NJ

Worked as a shift supervisor in the continuous manufacture of 2-4-dichlorophenoxyacetic acid; assisting in the re-activation of the plant. Responsibilities included supervision of the chlorination of acetic acid and hydride to form monochloroacetic acid; also supervised the manufacture of dichlorophenol. Excess chloride used in reactors was taken off the vapor line and mixed with water to form hydrochloric acid; the M-A-C and D-C-P were reacted to form the crude 2-4-D. After several more steps, the 2-4-D was flaked to form the finished product. Left Chemical Land when company went bankrupt.

1963 - 1975 - Various jobs in the chemical industry, primarily as a chemical operator

1955 - 1963 - Reliance Color and Chemical, 33 Avenue P, Newark, NJ

Employed as a laboratory technician; duties were the analysis of raw materials and in-process analysis. Operated pilot plant under the supervision of a chemical engineer. Much of the time was spent in the development of new processes for manufacturing.

A TRUE COPY

Stephen W. Leonard
CLERK

SUPREME COURT OF NEW JERSEY
M-883 September Term 1979

IN RE: ORDER DENYING
TEMPORARY OPERATING
AUTHORIZATION FOR FAC-
ILITIES OWNED AND OPERATED
BY ENERGALL, INC., SCIENTIFIC
CHEMICAL PROCESSING, INC.,
and PRESTO, INC.

FILED

JUN 12 1980

(N.J. Department of Environmental
Protection - Movant)

Stephen W. Leonard
CLERK

This matter having been duly presented to the Court,
it is ORDERED that the motion for leave to appeal the denial of
an application to enforce the Determination and Order of the Com-
missioner of the Department of Environmental Protection dated
March 27, 1980 is granted; and it is further

ORDERED that appellants immediately cease all solid waste
disposal operations, including the handling of special wastes, at their
facilities located at 411 Wilson Avenue, Newark, and at 216 Paterson
Plank Road, Carlstadt, pending the disposition of the appeal in the
Appellate Division; and it is further

ORDERED that the Appellate Division accelerate its consid-
eration of the appeal on the merits.

Jurisdiction is not retained.

WITNESS, the Honorable Robert N. Wilentz, Chief Justice
at Trenton, this 12th day of June, 1980.

Robert N. Wilentz

NOT FOR PUBLICATION WITHOUT THE APPROVAL
OF THE COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-3648-73

In Re ORDER DENYING
TEMPORARY OPERATING
AUTHORIZATION FOR FACILITIES
OWNED AND OPERATED BY ENERGALL,
INC., SCIENTIFIC CHEMICAL
PROCESSING, INC. and PRESTO, INC.

Appellants.

Argued September 30, 1980 - Decided OCT 10 1980

Before Judges Fritz, Polow and Joelson.

On appeal from the final decision of
the Department of Environmental
Protection.

Francis X. Crahay argued the cause
for appellants (Giordano, Halleran &
Crahay attorneys; Francis X. Crahay
on the brief).

Nathan M. Edelstein, Deputy Attorney
General, argued the cause for respondent
(John J. Degnan, Attorney General of
New Jersey, attorney; Stephen Skillman,
Assistant Attorney General, of counsel;
Nathan M. Edelstein, Deputy Attorney
General, on the brief).

PER CURIAM

Appellants are three corporations which operate solid waste
disposal facilities in Newark. Scientific Chemical Processing, Inc.,
also operates a facility in Carlstadt. In April 1978 the Department
of Environmental Protection (DEP) issued one-year temporary operating

authorizations, providing the operators with an opportunity to apply for permanent registration pursuant to N.J.S.A.13:1E-5.

In March 1979, the director of DEP's solid waste administration advised appellants by letter that DEP would revoke their temporary authorizations because one of the corporations and three corporate officers had been indicted for alleged illegal dumping of chemical and hazardous waste. Within a week appellants were informed that they may be entitled to a hearing but no request therefor was made.

The temporary authorizations expired in April 1979 and appellants were then advised that they were no longer to accept special waste at their facilities. After a chancery suit instituted by the operators was dismissed for lack of jurisdiction, leave to appeal was granted and the matter was remanded for an administrative hearing. The administrative law judge took eleven days of testimony and in October 1979 recommended that appellants not be permitted to handle "special wastes" or "solid waste disposal." His recommendations were adopted by the commissioner who ordered cessation of all solid waste disposal operations by appellants in March 1980. On June 12, 1980, the Supreme Court ordered that appellants "cease all solid waste disposal operations" pending disposition of their appeal by the Appellate Division.

Appellants demand reversal of the DEP order and issuance of new temporary operating authorization certificates pending processing of their permanent registration applications. In support of the relief demanded they make the following legal claims:

POINT I THE DEP'S DETERMINATION DENYING
OPERATING AUTHORIZATION AND DEMANDING

CLOSURE OF APPELLANTS' FACILITIES SHOULD BE REVERSED AS IT IS NOT BASED UPON SUBSTANTIAL EVIDENCE ADDUCED AT THE ADMINISTRATIVE HEARING AND AS SUCH CONSTITUTES AN ARBITRARY, CAPRICIOUS, AND DISCRIMINATORY ABUSE OF AGENCY POWER AND DISCRETION

POINT II IN THIS MATTER, THE INDICTMENT OF SOME CONSTITUTES INSUFFICIENT LEGAL AND FACTUAL GROUNDS TO ATTEMPT THE CLOSURE OF ALL APPELLANTS' FACILITIES

POINT III IN ADDITION TO THE FACT THAT INSUFFICIENT EVIDENCE EXISTS IN THE RECORD TO SUSTAIN THE DEP'S DETERMINATIONS, APPELLANTS WERE DENIED FUNDAMENTALLY FAIR TREATMENT AND PROCEDURAL DUE PROCESS AT THE ADMINISTRATIVE HEARING

We are satisfied that there was substantial credible evidence in the record to support the agency's conclusions. Mayflower Securities v. Bureau of Securities, 64 N.J. 85, 92-93 (1973). The choice of accepting or rejecting testimony rests not with the reviewing court but rather with the administrative agency. Passaic v. Botany Mills Inc., 72 N.J. Super. 449, 455-456 (App. Div. 1962), certif. den. 37 N.J. 231 (1962). Specifically, the standard of review concerning a DEP decision is to determine whether there is sufficient evidence in the record as to justify the determination reached. "Such a limited scope of review is particularly significant in this area of highly technical and scientific knowledge, wherein a court must accord a high degree of deference to the administrative agency and its expertise." Public Interest Research Group v. State, 152 N.J. Super. 191, 203 (App. Div. 1977), certif. den. 75 N.J. 538 (1977).

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Furthermore, there is a presumption of rea
which attaches to an administrative agency decisio
Matter of Public Hearings, 142 N.J. Super. 136, 1
certif. den., 72 N.J. 457 (1976). The presumption
rebutted by a showing that it was "arbitrary, unre
capricious." Ibid.

The record supports the finding that appell
submit the required engineering designs for perman
until a few days before the expiration of their te
These late submissions were found to have been gro
We find unimpressive appellants' argument that ver
waste operators submitted the requisite designs wi
four month period. Filing of the required designs
late is a gross violation of N.J.A.C.7:26-2.4. Ap
advised in November 1978 that "an environmental im
must be submitted for review." Nevertheless, they
in direct violation of N.J.A.C.7:26-2.12(e) which
with guidelines and criteria set forth for the pre
engineering design.

The record also contains substantial support
that the operational procedures of appellants' fac
the rules and regulations provided by statute and
code. N.J.S.A.13:1E-1 et seq., N.J.S.A.23:5-28, N
et seq. and N.J.A.C.7:26-1.1 et seq. These defici
haphazardly stacked, corroded and leaky drums, fai

STATE OF NEW JERSEY)
 : ss
COUNTY OF MERCER)

AFFIDAVIT OF
JONATHAN BERG

JONATHAN BERG, being duly sworn according to law, upon his oath deposes and says:

1. I am presently employed as Senior Environmental Specialist in the New Jersey Department of Environmental Protection, (DEP), Division of Waste Management. In this capacity, I am assigned to assist in the enforcement of the State's environmental laws and regulations. I have been employed by the DEP since April 9, 1979.

2. I hold a Bachelor of Science Degree from Stockton State College with a major in Environmental Science.

3. On March 15, 1983, I inspected the Scientific Chemical Processing, Inc., (SCP) site known as 411 Wilson Avenue, Newark, New Jersey. A copy of my inspection report is attached hereto as Exhibit A.

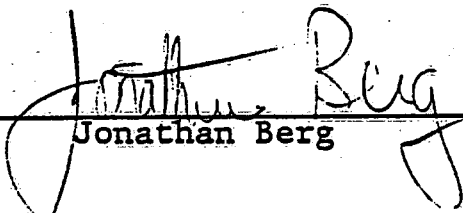
4. During the inspection, I observed numerous 55 gallon drums leaking their contents onto the ground.

5. On the second floor of the SCP building, I observed numerous sample containers labeled as follows: Used heptane with fats, Nitrobenzene, Waste Solvent, Polyvinyl Alcohol, Ether, Cresol, THF, Mother liquor from nitrile chloride, Butanol Bottoms, 1,2-Dichloroethane, 2-Ethoxyethanol, Formic Acid, Quinoline, p-Aminophenol, Benzol, Propylene Diamine, Sodium Silicate, Chloroform, MEK, Toluene, Ethyl Acetate, Benzin (Petroleum Ether), Crude Methanol, Strong Acids, N, N-Dimethyl analine, DNOP Methanol/Water Wash, Tetrahydrothiophene-1, 1-dioxide, Standard Silver Nitrate, DiisooctylPthalate, p, p-Methylene dianiline flakes,

Sodium Phosphate, Sodium Borate (Tetra), Nitrilotriacetic Acid, Phenolphthalein, 1-(1-Naphthyl)-2-thiourea, Sodium phosphate, Calcium nitrate, Nitric Acid, Still Bottoms, Methyl Methacrylate monomer, Perchloric Acid, Phenol, Nitric Acid, Sodium Hydroxide, Magnesium Hydroxide, Hexane, m-pyridine.

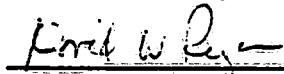
6. I also noted that acids, bases and peroxides are being stored in close proximity to one another. If these materials were to become mixed, a violent exothermic reaction would occur. Such a reaction could initiate a violent fire at the premises.

7. In my opinion, due to the threat of fire and/or explosion, the conditions at the 411 Wilson Avenue facility pose a substantial danger to individuals who reside and/or work in the vicinity of the site since toxic and hazardous fumes would be emitted into the air. Moreover, the continuing discharge of hazardous substances onto the ground at the site threatens to contaminate the surface water and groundwater of this area.


Jonathan Berg

Sworn and subscribed to before me

this 21st day of March, 1983.



Attorney at Law, State of New Jersey

MEMONEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION

TO David Reger
FROM Jonathan Berg *JB* DATE 3/16/83
SUBJECT SCP, Inc., 411 Wilson Avenue, Newark, Essex County

On 3/15/83, Wayne Howitz, Tom Brady and I arrived at the subject site at 1030 hours. Six grab samples were taken from various stationary tanks on-site (see attached field sampling data sheets and chain of custody form). Numerous 55 gallon drums were observed to be leaking waste materials. Said drums are not stored on an impervious surface, therefore, the leaking waste materials might be infiltrating through the soil into the groundwater.

In addition to sampling, we observed the following chemical names affixed to some of the sample containers found on the second floor of the SCP building.

Used Heptane with fats, Nitrobenzene, Waste Solvent, Polyvinyl Alcohol, Ether, Cresol, THF, Mother liquor from nitrile chloride, Butanol Bottoms, 1,2-Dichloroethane, 2-Ethoxyethanol, Formic Acid, Quinoline, p-Aminophenol, Benzol, Propylene Diamine, Sodium Silicate, Chloroform, MEK, Toluene, Ethyl Acetate, Benzin (Petroleum Ether), Crude Methanol, Strong Acids, N, N-Dimethyl aniline, DNOP Methanol/Water Wash, Tetrahydrothiophene-1, 1-dioxide, Standard Silver Nitrate, Diisooctyl Pthalate, p, p-Methylene dianiline flakes, Sodium Phosphate, Sodium Borate (Tetra), Nitrilotriacetic Acid, Phenolphthalein, 1-(1-Naphthyl)-2-thiourea, Sodium phosphate, Calcium nitrate, Nitric Acid, Still Bottoms, Methyl Methacrylate monomer, perchloric acid, phenol, nitric acid, sodium hydroxide, magnesium hydroxide, hexane, m-pyridine.

Be advised that acids, bases, and organic peroxides were observed to be stored in close proximity to one another (in sample containers). According to Wayne Howitz, if these materials were accidentally mixed together an exothermic reaction could result.

Numerous photographs of this facility were taken and will be forwarded to you when they become available.

STATE OF NEW JERSEY)
COUNTY OF MERCER) :ss

AFFIDAVIT OF
GEORGE WEISS

GEORGE WEISS, being duly sworn according to law, upon his oath deposes and says:

1. I am presently employed by the Department of Environmental Protection in the Division of Waste Management, Hazardous Site Mitigation Administration. In this capacity I am involved with inspecting operations dealing with hazardous waste and with cleaning up sites polluted with hazardous substances. I have been employed by the Department for approximately nine (9) years.

2. I hold a Bachelors Degree in Biology from J. F. Kennedy College in Nebraska.

3. In connection with my assignment, I inspected the SCP facility located at 411 Wilson Avenue, Newark, New Jersey on April 29, 1982. During the inspection I observed approximately 2000 drums situated outside of the buildings on the site. These drums were stacked two levels high. In addition, I observed 17 bulk storage tanks above ground and two 5,000 gallon storage tanks underground.

4. I observed numerous spills in the drum storage area.

5. There are approximately twelve (12) tank trailers next to the drum storage area. The materials stored in these trailers are presently unknown.

6. There are approximately 105 drums packed with small bottles of chemicals stored outside the buildings on the site.

7. Inside the buildings on the site there are several mixing vessels and bulk storage tanks which contain oil and other materials.

In addition, on the second floor there are hundreds of small bottles stored on shelves. These bottles contain ethers, acids and organic solvents.

8. Finally, inside the building I observed several hundred drums of waste. Included in this group were five drums of dicumyl peroxide, an extremely reactive chemical. These drums should be segregated from the other flammable materials.

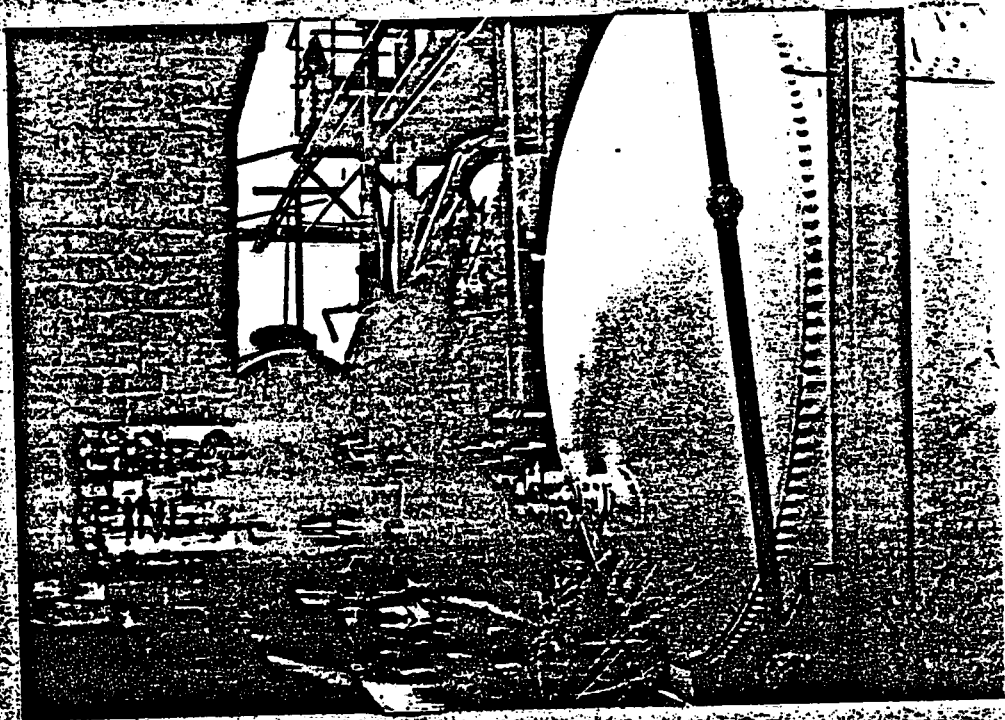
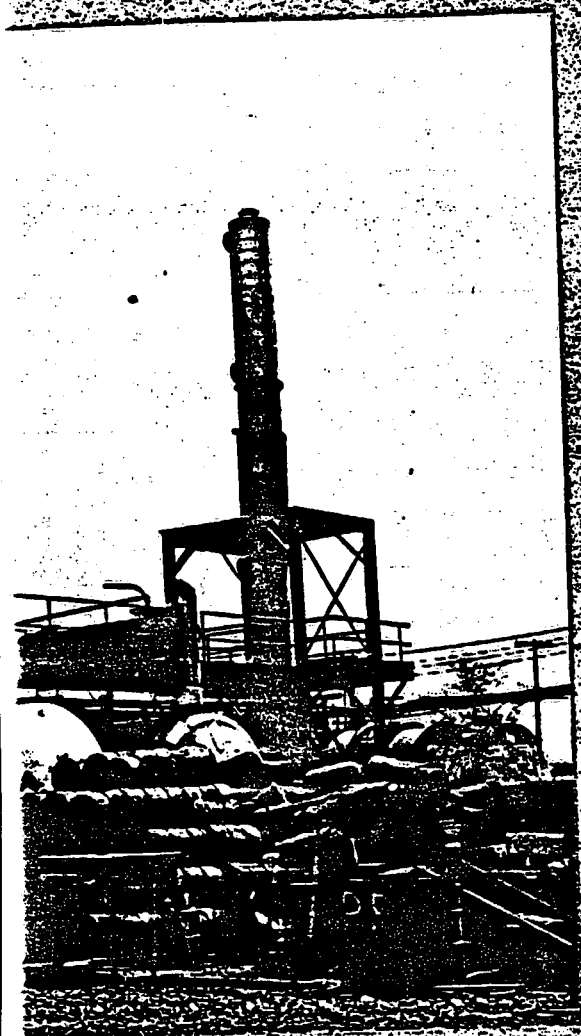
9. I attach hereto numerous photographs which depict the subject property.

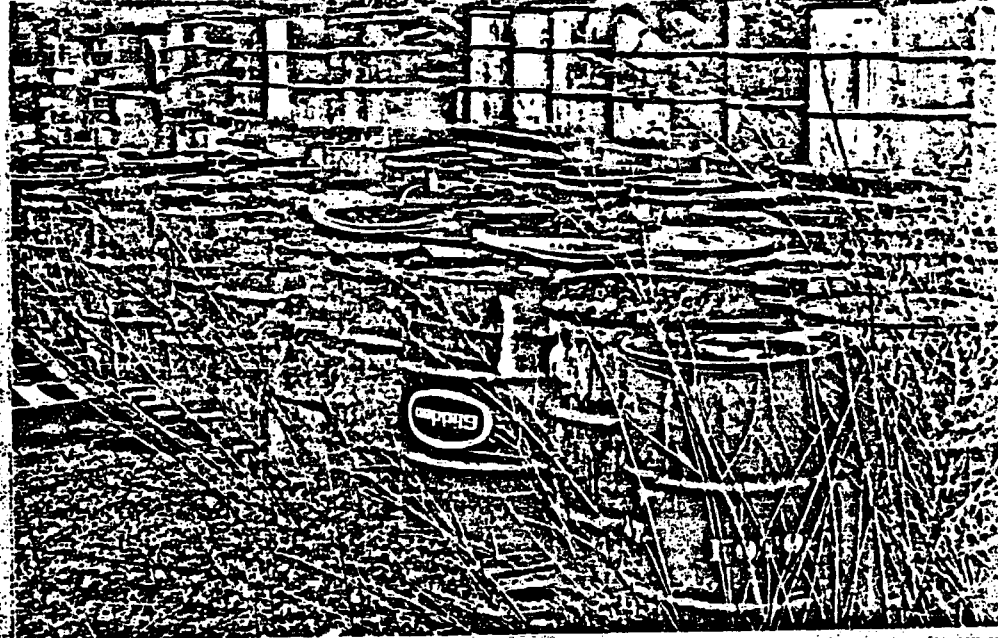
George Weiss
George Weiss

Sworn and subscribed to before

me this 26 day of April, 1983.

David W. Fearn
attorney at law, State of New Jersey





File

George Weiss *GW*

DATE May 12, 1982

SUBJECT S.C.P. Facility - Newark

inspection of the subject facility was conducted on April 29, 1982. The following people were at the inspection:

George Weiss	-	Division of Hazard Management
Scott Santora	-	Division of Hazard Management
George Smajda	-	N.J. Solid Waste Administration
Otto Hassold	-	Olsen and Hassold Incorporated
Robert Flett	-	Olsen and Hassold Incorporated
Mr. Olsen	-	Olsen and Hassold Incorporated
Jeff Schneider	-	Attorney for Olsen and Hassold Inc.
Henry Konopka	-	Chemical Waste Management, Inc.

outside area of the plant contains 2,000 + drums. These drums are stacked high and are palletized. Also, outside are approximately 17 bulk storage tanks aboveground and two 5,000 gallon storage tanks underground.

drums storage areas are fairly neat, with only minor spillage in these areas. Drums are easily accessible, and are palletized for easier movement. Chemical spills, in the drums areas, were very slight and indicated possible paint solvents and phenolic chemicals. Readings, taken by Scott Santora, using the HNU photo ionization detector, calibrated for Benzene, showed 3 to 6 ppm in the drum areas. Background readings for the general area were 3 ppm. The bulk storage tanks appear to be in good shape, with no apparent leakage.

In addition to the drums and bulk tanks, there are approximately a dozen tank fillers next to the drum storage area. The amount of material stored in these fillers is unknown.

There is also a section containing approximately 105 drums containing laboratory mixed chemicals.

Inside the building there are several process or mix vessels and seven bulk storage tanks, alleged to contain oil or oil/water mixture.

On the second floor there are shelves containing several hundred small containers. These containers, some of which are unlabelled, appear to be both lab chemicals and samples. Some of the lab chemicals included are: Ethers, Acids and Organic Solvents.

There are also several hundred drums of material inside the building. Among these are five drums of Dicumyl Peroxide, an extremely reactive oxidizer. These drums should be segregated from all flammables.

The interior portions of the site appeared to be in fairly good shape, with only slight spillage apparent.

Scientific Chemical Processing, Inc. R

JAN 2 1981

415 WILSON AVE.
NEWARK NEW JERSEY 07102
PHONE 201 589 7700

December 16, 1980

Dr. Ralph Pasceri
Chief, Bureau of Hazardous Waste
Department of Environmental Protection
32 Hanover St.
Trenton, N.J.

Dear Dr. Pasceri:

The purpose of this letter is to present a detailed plan, subject to your approval, for the removal of all special waste from the Carlstadt facility of Scientific Chemical Processing and the Newark facilities of Scientific Chemical Processing, Energall and Presto. As we indicated to you at our meeting on December 2, our long term objectives are to completely close down the Carlstadt facility and return the property to the owners. The Newark facilities will be used for chemical manufacturing with new operating officers and a change of ownership.

The general plan is to:

1. Ship drums to approved facilities (Enviro-Chem, CECOS, R.F.I., Waste Management, American Recovery, etc.).
2. Dispose of burnable liquids to approved facilities.
3. Treat all water to conform to sewer standards.
4. Sludges to be sucked into vacuum wagons and sent to approved facilities or drummed off and sent to approved facilities.

The complete removal of all waste from Scientific Chemical Processing can be accomplished in five stages.

STAGE I - EMPTYING OF ALL LEASED AND SOLD TANKWAGONS AND TANKS AND RETURNING THEM TO THE OWNERS.

These transfers will be accomplished by an outside company utilizing their vacuum trucks and will be accomplished in two days in the presence of a DED inspector. This stage is important to return these items to their respective owners and also to empty and remove equipment not having secondary containment and dikes.

EXHIBIT "F"

1. The following transfers will be made:

<u>TANK #</u>	<u>MATERIAL</u>	<u>GALLONS</u>	<u>TO</u>
T-107	Fuel Residue	1,000	T-109
T-25	Crude Fuel/Water	6,000	T-112
T-27	Crude Fuel/Water	6,000	T-113
T-23	Crude Fuel/Water	500	T-112
T-29	Methanol/Water	5,000	T-11
T-30	Methanol/Water	5,000	T-11 & 12
VTI-100	Crude Fuel/Water	4,000	T-119
VTS-2	Crude Fuel/Water	500	T-106
VTS-402	Methanol/Water	2,500	T-107
VTS-219	Methanol/Water	2,500	T-107
VTS-5	Crude Fuel/Water	3,500	T-106

2. VTS-131 - contains 3,000 gallons crude methanol/phosphoric and water mixture which belongs to Harmon Colors. This will be removed from the tankwagon by a licensed carrier and shipped back to Harmon Colors. (See attachment #1).
3. VTS-7 - Contains 3,000 gallons salt water from treater tanks. Scientific Chemical Processing has valid sewer discharge permit from Carlstadt Sewerage Authority to legally discharge into sewer. (See attachment #2).
4. T-26 - Contains 5,000 gallons fuel blend to be removed by Solvent Recovery Services.

STAGE II - SHIPPING OUT 577 REPACKED DRUMS TO AUTHORIZED FACILITY

Permission has been verbally granted to ship these at our meeting of December 2, 1930, utilizing our own personnel. Negotiations have already begun with facilities, and shipments will be started in December. 577 drums at an estimated cost of \$ 50.00 per drum, (based on our costs when shut down in June, 1930) amounts to \$ 28,850.00. Shipping will be started in December. With no holdup, we would expect to move 30 drums per week, or seven weeks for completion.

STAGE III - REPACKING AND SHIPPING DRUMS IN NEWARK

There are approximately 2,000 drums in the Newark facility and none in the Carlstadt facility. Under the terms of our verbal agreement with the N.J. DEP, our personnel can do the repacking, under supervision by approved outside manager.

Based on rates accomplished in the past by our personnel, about 50 drums per day can be repacked or 3 weeks. 2000 drums would be condensed to approximately 1,000 and it would be 13 weeks at one truck load per week for final disposal.

December 16, 1980

During stages I and II, an outside supervisor agreeable to the N.J. State DEP will be searched for. This person will also supervise, during this eight week period, the distillation of crude chlorinated solvents by Presto, Inc., which has 337 drums and 1,000 gallons bulk. At a rate of 500 gallons per day, this would also take eight weeks. During this period Presto personnel would also consolidate their 3 drums of still bottoms at a rate of 10 per day. Most are $\frac{1}{2}$ full, containing oil, water and sludge. The oil and water will be pumped off, and sludges consolidated to approximately 200 drums. This would cost \$ 10,000.00, which money would be generated by the sale of the recovered chlorinated solvents.

STAGE IV - EMPTYING OF NEWARK TANKS

STAGE V - EMPTYING OF CARLSTADT TANKS

These can be treated in the same discussion. During the first three stages, negotiations will be going on with facilities that can handle this material. There are many possible routes to explore in order to minimize expenses. A brief discussion of the ten most likely methods we will be using follows:

A. ORGANICS

1. Disposal by facility that utilizes solidification methods (I.U. Conversions, Stabitol, EFI, etc).
2. Burned at facility to recover fuel value (Keystone, CEA, Solite, etc).
3. Burned at facility for destruction (Rollins, etc).
4. Blended with outside streams to make acceptable for burning.
5. Drum off and disposal by outside facility (Enviro-Chem, Waste Management, etc).
6. Local landfill for acceptable materials.

B. WATER

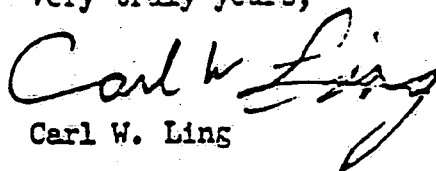
1. Meet sewer standards by blending, neutralizing, filtering, etc.
2. Meet sewer standards by flashing off light ends or fractionating methanol-water.
3. Outside disposal (Earthline, etc).
4. Outside incineration (CEA, Rollins, etc).

Dr. Pasceri

December 16, 1960

In the inventory sheets after each tank the letter and number refer to the preceding, to indicate likely means of disposal.

Very truly yours,


Carl W. Ling

CWL/rb

attachments 1. Letter from Harmon Colors.
2. Letter from Carlstedt Sewer Authority.
3. Tank Inventory.

HARMON COLORS CORPORATION



11/19/80

 F. O. L. 11/19/80
 Hawthorne, New Jersey, C.
 1201

November 14, 1980

Mr. L. Sigmund
 Scientific Chemical
 411 Wilson Avenue
 Newark, NJ 07105

Dear Mr. Sigmund:

This letter is in reference to our telephone conversation on November 13, 1980, concerning the delivery and return of our Methanol Phosphoric Acid mixture. Due to RCRA chemical waste regulations which go into effect on November 19, 1980, it becomes necessary to request from you verification in writing that the material we are expecting is, in fact, the same chemical mixture we forwarded to you for distillation.

A letter signed by you or a chief officer of your organization to accompany the load on arrival here at Harmon would be appreciated. The content of this letter should contain the following information:

1. The load you are returning is our material and contains only Methanol Phosphoric Acid and water.
2. The approximate breakdown (in percentage) of each chemical is 25% Methanol, 20% Phosphoric Acid and 55% water.

Please be assured that our plant fully intends to comply with all Federal, State and Local laws concerning chemical waste and your cooperation in this matter would be appreciated.

Sincerely yours,

A handwritten signature, likely of S. D. Nero, in dark ink.

S. D. Nero
 Production Manager

STL/dob

JOHN J. WILCOX

WALTER E. BEESE

JOHN E. EMAN

JOHN J. MCCOY
JOHN E. EMAN

JOHN E. BRADY

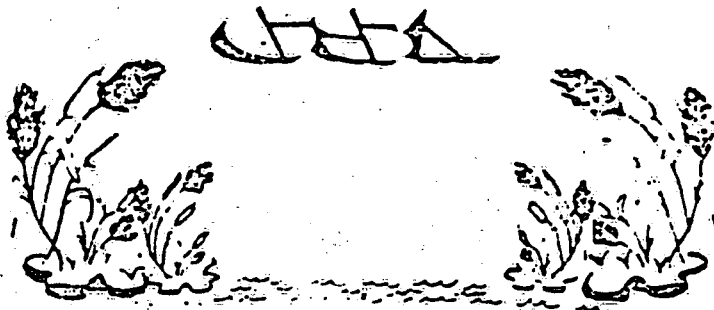
JOHN E. BRADY

WALTER FORD

JOHN E. BRADY

JOHN E. BRADY

JOHN E. BRADY



CARLSTADT SEWERAGE AUTHORITY

419 HACKENSACK STREET
CARLSTADT, NEW JERSEY 07003
(201) 218-0180

1 107

April 28, 1978

Scientific Chemical Processing, Inc.
411 Wilson Avenue
Newark, New Jersey

Dear Mr. Sigmund:

Permission is hereby granted for Scientific Chemical Processing Inc. to discharge waste indicated in your April 25, 1978 application.

However, as we discussed, should said waste be found to be deleterious to the Carlstadt Sewerage Authority system, or the treatment process of the Bergen County Utilities Authority, the permission to connect will be rescinded.

Furthermore, should it be determined that the BOD content of the waste being discharged is in excess of the requirements of the Bergen County Utilities Authority at the Jony Drive pumping station, you will be responsible for paying any surcharge imposed by the Bergen County Utilities Authority.

If you should have any questions please do not hesitate to call this office.

Very truly yours,

Aurelius Barbire

AB/pd